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ABSTRACT

Intended for Minnesota legislators, this report compares special education requirements under Minnesota special education legislation and federal legislation. It is divided into two parts. Part 1 compares Minnesota special education law and federal special education requirements under the Individuals with Disabilities Education Act (IDEA). Part 2 deals with similar comparisons for Minnesota education rules. Each part of the report is page numbered independently. The first page of each part lists those laws or rules for which Minnesota requirements are consistent with the federal requirements. No further reference is made to those sections. Each page of the body of the report contains three columns: column 1 is the exact text of a state statute or rule; column 2 contains the citation for the matching federal requirement; and column three contains either a brief description of the difference or a statement that there is no analogue in the federal requirements. Provisions discussed include special education eligibility, procedural safeguards, Individualized Education Programs, mediation, and definitions. (CR)

MINNESOTA
DEPARTMENT OF*Children,
Families & Learning*

COMMISIONER:
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*Minnesota
Special Education Law
(M.S. 120)
and
United States
Public Law 105-17
(IDEA)*

*A Comparison
of
Requirements*

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September 23, 1998

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Report
to the
Legislature

CAPITOL SQUARE BUILDING

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As required by

MN Session Laws 1998

Chapter 398,

Art. 2, Sec. 54.

is intended to provide information
regarding the material has
been submitted.

Hanson

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Executive Summary

This report, prepared in response to legislative session laws

CHAPTER 398, ARTICLE 2, Sec. 54.

[REPORT TO COMPARE FEDERAL AND STATE SPECIAL EDUCATION LAW.]

is in two parts: Part one dealing with comparisons between Minnesota Law and Federal IDEA requirements; Part two dealing with similar comparisons for Minnesota education rule. Due to the fact that a current revision of Federal rules is in progress, this report contains only comparisons with existing Federal law. Each part of the report is page numbered independently. The first page of each part of the report lists those laws or rules for which Minnesota requirements are consistent with the federal requirement. No further reference is made to those sections.

Each page of the body of the report contains three columns:

Column one is the exact text of a State statute or rule.

Column two contains the citation for the matching Federal requirement.

Column three contains either:

- a) a brief description of the difference, whether the Minnesota requirement exceeds or falls short of the Federal requirement and why, or
- b) a statement that there is no analogue in the Federal requirements.

In instances where Minnesota statute or rule exceeds the Federal requirement or for which there is no Federal analogue, the legislature of course has the option of maintaining, modifying, or eliminating the Minnesota requirement. In instances where the Minnesota statute or rule falls short of the Federal requirement, a decision must be made regarding how to proceed to correct the situation. There are three options:

- a) The Legislature may enact a statute to address the issue.
- b) The Legislature may direct the State Board of Education to address the issue.
- or
- c) The Legislature may eliminate the Minnesota requirement which will mean that the Federal requirement applies.

Option "c" does not apply when the Federal requirement is for Minnesota to adopt a policy (statute or rule) to cover a specific topic.

Estimated costs associated with this report:

9 meetings, 6-7 participants x 3 hours. Each

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Minnesota State Law and United States Public Law 105-17

A Comparison of Requirements

This report is presented in fulfillment of the legislative mandate set forth as follows:

Minnesota Session Laws - 1998

CHAPTER 398-H.F.No. 2874

ARTICLE 2 - SPECIAL EDUCATION

Sec. 54. [REPORT TO COMPARE FEDERAL AND STATE SPECIAL EDUCATION LAW.]

Subdivision 1. [REPORT.] The commissioner of children, families, and learning shall prepare a report comparing existing and currently proposed federal laws and regulations and state laws and rules governing special education, indicating those state laws and rules governing special education that exceed or expand upon minimum requirements under federal special education law or regulations. The commissioner shall make the report available by September 30, 1998, to the public, the state board of education, and the education committees of the legislature for consideration of amending state rules.

Instances of apparent breaks in numbering sequence within the document are the result of legislative repealers and renumbering by the Revisor of Statutes or, as shown to the right.

For the purposes of this report, and in the interests of conciseness, those portions of Minnesota law governing special education which are consistent with federal law have been omitted. These items are listed below. Items listed as consistent are not identical to federal language, and often add clarity to assist Minnesota districts in the application of Federal Law and Rule.

M.S. 120.03, Subd. 1-4

M.S. 120.064

M.S. 120.17, Subd. 2, (a) and (b)

Subd. 3, (a)

Subd. 3a, (a) (1) and (3) through (7) and (b)

Subd. 3b, (a), (b), (d) through (f), (i), (l) and (q)

M.S. 120.1701 Subd. 2

Subd. 3

Subd. 4 (c)

Subd. 5 (c) (3)

Subd. 7

Subd. 8 (b)

Subd. 9 (a) through (c)

Subd. 10

Subd. 11

Subd. 13

Subd. 14

Subd. 16

Subd. 17 (a) and (d)

Subd. 18

Subd. 19

Subd. 20

Subd. 22

M.S. 120.185

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
120.03 Children with a disability, defined.		
Subd. 5. A child with a short-term or temporary physical or emotional illness or disability, as determined by the standards of the state board, is not a child with a disability.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
120.17 Children with a disability.		
Subdivision 1. Special instruction for children with a Disability. (a) As defined in paragraph (b), to the extent Required in federal law as of July 1, 1999, very district shall Provide special instruction and services, either within the district or in another district, for children with a disability who are residents of the district and who are disabled as set forth in section 120.03. (b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until September 1 after the child with a disability becomes 22 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 126.22, subdivision 2. Local health, education, and social service agencies shall refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the state board shall cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This subdivision does not alter the compulsory attendance requirements of section 120.101.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (1) FREE APPROPRIATE PUBLIC EDUCATION- SEC. 1413. LOCAL EDUCATIONAL AGENCY ELIGIBILITY. (7) PUBLIC INFORMATION (e) JOINT ESTABLISHMENT OF ELIGIBILITY- (1) JOINT ESTABLISHMENT-	Minnesota Law exceeds Federal requirements because Federal Law does not require service for children ages 0-5 or over 17 unless provided by state law for all children.
Subd. 1b. High school diploma. Upon completion of Secondary school or the equivalent, a pupil with a disability who satisfactorily attains the objectives in the pupil's individual education plan shall be granted a high school diploma that is identical to the diploma granted to a pupil without a disability.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 2. METHOD OF SPECIAL INSTRUCTION.		
(c) The primary responsibility for the education of a child with a disability shall remain with the district of the child's residence regardless of which method of providing special	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subd. 2(c), Continued) instruction and services is used. If a district other than a child's district of residence provides special instruction and services to the child, then the district providing the special instruction and services shall notify the child's district of residence before the child's individual education plan is developed and shall provide the district of residence an opportunity to participate in the plan's development. The district of residence must inform the parents of the child about the methods of instruction that are available. (i) Instruction in Braille reading and writing is a service for the purpose of special education and services under this section. (j) Paragraphs (e) to (i) shall not be construed to supersede any rights of a parent or guardian of a child with a disability under federal or state law.		
Subd. 3. Rules of the state board.		
(b) As provided in this paragraph, but not to exceed the extent required by federal law as of July 1, 1999, the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the state board of education result in one or more of the following outcomes: (1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction; (2) consistent and uniform access to effective education programs for students with disabilities throughout the state; (3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced court actions related to the delivery of special education instruction and services for students with disabilities; (4) clear expectations for service providers and for students with disabilities; (5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities; (6) greater focus for the state and local resources	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17, Continued) dedicated to educating students with disabilities; and (7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.		
Subd. 3a. School district obligations.		
(a) (2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 3b. Procedures for decisions. As defined in this Paragraph, but not to exceed the extent required by federal Law as of July 1, 1999, every district shall utilize at least the following procedures for decisions involving identification, assessment, and educational placement of children with a disability:		
(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference, mediation, or other method of alternative dispute resolution that the parties agree to, if they object to any proposal of which they are notified under paragraph (a). The state intends to encourage parties to resolve disputes through mediation or other form of alternative dispute resolution. A school district and a parent or guardian must participate in mediation using mediation services acceptable to both parties, unless a party objects to the mediation. Mediation shall remain available to the parties until a party objects to the mediation, or the mediator determines that further efforts to mediate a dispute are not warranted. All mediation is subject to the confidentiality requirements under rule 114.08 of the general rules of practice for the district courts. alternative dispute resolution shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation or other alternative dispute resolution shall be deemed to be satisfied. Notwithstanding other law, in any proceeding following a conciliation conference, the school district must not offer a conciliation conference memorandum into evidence, except for any portions that describe the district's final proposed offer of service.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 3b, Continued) Otherwise, with respect to forms of dispute resolution, mediation, or conciliation, Minnesota Rule of Evidence 408 applies. The department of children, families, and learning may reimburse the districts or directly pay the costs of lay advocates, not to exceed \$150 per dispute, used in conjunction with alternative dispute resolution.		
(g) The hearing officer may require the resident school district to provide compensatory educational services to the child if the hearing officer finds that the school district has not offered or made available to the child a free appropriate public education in the child's educational program and that the child has suffered a loss of educational benefit. Such services shall take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding shall be based on a present determination of whether the child has suffered a loss of educational benefit.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
(h) Any local decision issued pursuant to paragraphs (e) and (f) may be appealed to the commissioner within 30 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district responsible for assuring that an appropriate program is provided in accordance with state board rules. The appealing party shall note the specific parts of the hearing decision being appealed. If the decision is appealed, a written transcript of the hearing shall be made by the school district and provided by the district to the parties involved and the hearing review officer within five calendar days of the filing of the appeal. The hearing review officer shall conduct an appellate review and issue a final independent decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. However, the hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time	SEC. 1415. PROCEDURAL SAFEGUARDS.	In part, Federal requirements exceed Minnesota Law because Federal Law requires that the transcript be made available in either written or electronic form. In part, Minnesota Law exceeds Federal requirements because Minnesota Law specifies 5 calendar days for the filing of the appeal while the federal requirement does not specify a timeline and because Minnesota Law requires that "good cause" be shown in seeking an extension of the 30 day timeline for the conduct of the hearing.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 3b, Continued) beyond the 30-day period at the request of any party for good cause shown on the record. The final decision shall: (1) be in writing; (2) include findings and conclusions; and (3) be based upon the standards set forth in subdivision 3a and in the rules of the state board. (j) The commissioner of children, families, and learning shall select an individual who has the qualifications enumerated in this paragraph to serve as the hearing review officer: (1) the individual must be knowledgeable and impartial; (2) the individual must not have a personal interest in or specific involvement with the student who is a party to the hearing; (3) the individual must not have been employed as an administrator by the district that is a party to the hearing; (4) the individual must not have been involved in the selection of the administrators of the district that is a party to the hearing; (5) the individual must not have a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies; (6) the individual must not have substantial involvement in the development of a state or local policy or procedures that are challenged in the appeal; (7) the individual is not a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, the department of children, families, and learning, the state board of education; and (8) the individual is not a current employee or board member of a disability advocacy organization or group.	SEC. 1415. PROCEDURAL SAFEGUARDS.	In part, Minnesota Law exceeds Federal requirements because Minnesota Law requires that "good cause" be "shown on the record" in order for the hearing review officer to grant extensions beyond the 30-day period. Minnesota Law exceeds Federal requirements because Minnesota Law specifies the qualifications of the hearing review officer.
(k) In all appeals, the parent or guardian of the pupil with a disability or the district that is a party to the hearing may challenge the impartiality or competence of the proposed hearing review officer by applying to the hearing review officer. (m) The child's school district of residence, a resident	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law. There is no analogue in Federal

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 3b, Continued) district, and providing district shall receive notice of and may be a party to any hearings or appeals under this subdivision.	<i>Public Law 105-17 does not address the content of this Section</i>	Law.
(n) A school district is not liable for harmless technical violations of this subdivision s implementing this subdivision if the school district can demonstrate on a case-by-case basis that the violations did not harm the student's educational progress or the parent or guardian's right to notice, participation, or due process.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
(o) Within ten calendar days after appointment, the hearing officer shall schedule and hold a prehearing conference. At that conference, or later, the hearing officer may take any appropriate action that a court might take under Rule 16 of Minnesota Rules of Civil Procedure including, but not limited to, scheduling, jurisdiction, and listing witnesses including expert witnesses.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
(p) A hearing officer or hearing review officer appointed under this subdivision shall be deemed to be an employee of the state under section 3.732 for the purposes of section 3.736 only.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
(r) The hearing officer may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious shall be excluded.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 3d. Interagency services. If at the time of initial referral for an educational assessment, or a reassessment, the school district determines that a child with disabilities who is age 3 through 21 may be eligible for interagency services, the district may request that the county of residence provide a representative to the initial assessment or reassessment team meeting or the first individual education plan team meeting following the assessment or reassessment. The district may request to have a county representative attend other individual education plan team meetings when it is necessary to facilitate coordination between district and county provided services. Upon request from a school district, the resident county shall provide a representative to assist the	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 3d, Continued) individual education plan team in determining the child's eligibility for existing health, mental health, or other support services administered or provided by the county. The individual education plan team and the county representative shall develop an interagency plan of care for an eligible child and the child's family to coordinate services required under the child's individual education plan with county services. The interagency plan of care shall include appropriate family information with the consent of the family, a description of how services will be coordinated between the district and county, a description of service coordinator responsibilities and services, and a description of activities for obtaining third-party payment for eligible services, including medical assistance payments.		
Subd. 4. Special instructions for nonresident children. When a school district provides instruction and services outside the district of residence, board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any child with a disability shall be the actual cost of providing special instruction and services to the child including a proportionate amount for capital outlay and debt service but not including any amount for transportation, minus the amount of special aid for children with a disability received on behalf of that child. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. The commissioner shall then set a date for a hearing, giving each board at least ten days' notice, and after the hearing the commissioner shall make an order fixing the tuition rate, which shall be binding on both school districts. When a district provides instruction and services in a day program outside the district of residence, the district of residence shall be responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the district of residence, the nonresident district in which the child is placed shall be responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 3d, Continued) shall pay transportation aid to that district. For the purposes of this section, any school district may enter into an agreement, upon terms and conditions which are mutually agreed upon, to provide special instruction and services for children with a disability. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts. Each participating unit shall reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid, which shall be claimed in full by the employing district.		
Subd. 4a. Attendance in another district. No resident of a district who is eligible for special instruction and services pursuant to this section shall be denied provision of this instruction and service because of attending a public school in another school district pursuant to section 123.39, subdivision 5, if the attendance is not subject to section 120.075, 120.0751, or 120.0752. If the pupil attends a public school located in a contiguous district and the district of attendance does not provide special instruction and services, the district of residence shall provide necessary transportation for the pupil between the boundary of the district of residence and the educational facility where special instruction and services are provided within the district of residence. The district of residence may provide necessary transportation for the pupil between its boundary and the school attended in the contiguous district, but shall not pay the cost of transportation provided outside the boundary of the district of residence.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 5. School of parents' choice. Nothing in this chapter shall be construed as preventing parents of a child with a disability from sending such child to a school of their choice, if they so elect, subject to admission standards and policies adopted according to chapter 128A, and all other provisions of chapters 120 to 129.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 5a. Summer programs. A district may provide		

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17, Subd. 5a Continued) summer programs for children with a disability living within the district and nonresident children temporarily placed in the district pursuant to subdivision 6 or 7. Prior to March 31 or 30 days after the child with a disability is placed in the district, whichever is later, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to subdivision 6 or 7, of its intention to provide these programs. Notwithstanding any contrary provisions in subdivisions 6 and 7, the school district providing the special instruction and services shall apply for special education aid for the summer program. The unreimbursed actual cost of providing the program for nonresident children with a disability, including the cost of board and lodging, may be billed to the district of the child's residence and shall be paid by the resident district. Transportation costs shall be paid by the district responsible for providing transportation pursuant to subdivision 6 or 7 and transportation aid shall be paid to that district.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 6. Placement in another district; responsibility. The responsibility for special instruction and services for a child with a disability temporarily placed in another district for care and treatment shall be determined in the following manner: (a) The school district of residence of a child shall be the district in which the child's parent resides, if living, or the child's guardian, or the district designated by the commissioner of children, families, and learning if neither parent nor guardian is living within the state. (b) When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation and an appropriate educational program for the child. The district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district. (c) When a child is temporarily placed in a residential	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 6, Continued) program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and shall bill the district of the child's residence for the actual cost of providing the program, as outlined in subdivision 4, except that the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than for making provision for the child's special educational needs shall not become the responsibility of either the district providing the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment. (d) The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education aid for the child as provided by law. Transportation costs shall be paid by the district responsible for providing the transportation and the state shall pay transportation aid to that district.		
Subd. 7. Placement in state institution; responsibility. Responsibility for special instruction and services for a child with a disability placed in a state institution on a temporary basis shall be determined in the following manner: (a) The legal residence of such child shall be the school district in which the child's parent resides, if living, or the child's guardian. (b) When the educational needs of such child can be met through the institutional program, the costs for such instruction shall be paid by the department to which the institution is assigned with exception of children placed in fee-for-service facilities operated by the commissioner of corrections whose cost for such instruction shall be paid as	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 7, Continued) outlined in subdivision 6. (c) When it is determined that such child can benefit from public school enrollment, provision for such instruction shall be made in the following manner: (1) determination of eligibility for special instruction and services shall be made by the commissioner of children, families, and learning and the commissioner of the department responsible for the institution; (2) the school district where the institution is located shall be responsible for providing transportation and an appropriate educational program for the child and shall make a tuition charge to the child's district of residence for the actual cost of providing the program; (3) the district of the child's residence shall pay the tuition and other program costs excluding transportation costs and may claim general education aid for the child. Transportation costs shall be paid by the district where the institution is located and the state shall pay transportation aid to that district.		
Subd. 7a. Attendance at school for the disabled. Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota state academy for the deaf or the Minnesota state academy for the blind shall be determined in the following manner: (a) The legal residence of the child shall be the school district in which the child's parent or guardian resides. (b) When it is determined pursuant to section 128A.05, subdivision 1 or 2, that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged shall not exceed the basic revenue of the district for that child, for the amount of time the child is in the program. For purposes of this subdivision, "basic revenue" has the meaning given it in section 124A.22, subdivision 2. The district of the child's residence shall pay the tuition and may claim general education	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota Statutes 1997 Chapter 120.	Individuals with Disabilities Education Act Amendments of 1997 Public Law 105-17	Comments
(120.17 Subdivision 7a, Continued) aid for the child. Tuition received by the state board, except for tuition received under clause (c), shall be deposited in the state treasury as provided in clause (g). (c) In addition to the tuition charge allowed in clause (b), the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, if that aide is required by the child's individual education plan. Tuition received under this clause must be used by the academies to provide the required service. (d) When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for children with a disability shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law. (e) Notwithstanding the provisions of clauses (b) and (d), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause (d) for providing appropriate educational programs to pupils attending the applicable school. (f) Notwithstanding the provisions of clauses (b) and (d), the state board may agree to supply staff from the Minnesota state academy for the deaf and the Minnesota state academy for the blind to participate in the programs provided by the district where the institutions are located when the programs		

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(120.17 Subdivision 7a, Continued) are provided to students in attendance at the state schools. (g) On May 1 of each year, the state board shall count the actual number of Minnesota resident kindergarten and elementary students and the actual number of Minnesota resident secondary students enrolled and receiving education services at the Minnesota state academy for the deaf and the Minnesota state academy for the blind. The state board shall deposit in the state treasury an amount equal to all tuition received less: (1) the total number of students on May 1 less 175, times the ratio of the number of kindergarten and elementary students to the total number of students on May 1, times the general education formula allowance; plus (2) the total number of students on May 1 less 175, times the ratio of the number of secondary students on May 1 to the total number of students on May 1, times 1.3, times the general education formula allowance. (h) The sum provided by the calculation in clause (g), subclauses (1) and (2), must be deposited in the state treasury and credited to the general operation account of the academy for the deaf and the academy for the blind. (i) There is annually appropriated to the department of children, families, and learning for the Faribault academies the tuition amounts received and credited to the general operation account of the academies under this section. A balance in an appropriation under this paragraph does not cancel but is available in successive fiscal years.		
Subd. 8a. Residence of child under special conditions. The legal residence of a child with a disability placed in a foster facility for care and treatment when: (1) parental rights have been terminated by court order; (2) parent or guardian is not living within the state; (3) no other school district residence can be established; or (4) parent or guardian having legal custody of the child is an inmate of a Minnesota correctional facility or is a resident of a halfway house under the supervision of the commissioner of corrections; shall be the school district in which the child resides. The school board of the district of residence shall provide the same educational program for such child as it provides for all	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

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(120.17 Subdivision 8a, Continued) resident children with a disability in the district.		
Subd. 9. Special instruction. No resident of a district who is eligible for special instruction and services under this section shall be denied instruction and service on a shared time basis consistent with section 124A.034, subdivision 2, because of attending a nonpublic school defined in section 123.932, subdivision 3. If a resident pupil with a disability attends a nonpublic school located within the district of residence, the district shall provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident pupil with a disability attends a nonpublic school located in another district and if no agreement exists under section 124A.034, subdivision 1 or 1a, providing special instruction and services on a shared time basis to that pupil by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence shall provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school shall pay the cost of transportation provided outside the district boundary.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (10) CHILDREN IN PRIVATE SCHOOLS	Minnesota Law exceeds Federal requirements. Federal Law requires service to students in private schools ONLY to the extent of Federal funding, while Minnesota Law provides for full service and due process rights for these students.
Subd. 10. Nonresident education; billing. All tuition billing for the education of nonresident children pursuant to this section shall be done on uniform forms prescribed by the commissioner. The billing shall contain an itemized statement of costs which are being charged to the district of residence. One copy of each such billing shall be filed with the commissioner.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 11. Transportation aid agreements. Notwithstanding the provisions of subdivisions 4, 5a, and 6, when a child receives special instruction and services in a day program outside the resident district, the resident district and the nonresident district where the child is placed may enter	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

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(120.17 Subdivision 11, Continued) into an agreement providing for the nonresident district to pay the cost of any particular transportation categories specified in section 124.225, subdivision 1, and claim transportation aid for those categories. In this case, the nonresident district may not obtain any payment from the resident district for the categories covered by the agreement.		
Subd. 15. Third party payment. (a) Nothing in this section relieves an insurer or similar third party from an otherwise valid obligation to pay, or changes the validity of an obligation to pay, for services rendered to a child with a disability, and the child's family. A school district may pay or reimburse copayments, coinsurance, deductibles, and other enrollee cost-sharing amounts, on behalf of the student or family, in connection with health and related services provided under an individual educational plan. (b) Beginning July 1, 1999, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type that may be reimbursable, and shall request, but may not require, updated information after that as needed. Districts shall request, but may not require, the child's parent or legal representative to sign a consent form, permitting the school district to apply for and receive reimbursement directly from the insurer or other similar third party, to the extent permitted by the insurer or other third party and subject to their networking credentialing, prior authorization, and determination of medical necessity criteria. (c) Of the reimbursements received, districts may: (1) retain an amount sufficient to compensate the district for its administrative costs of obtaining reimbursements; (2) regularly obtain from education- and health-related entities training and other appropriate technical assistance designed to improve the district's ability to determine which services are reimbursable and to seek timely reimbursement in a	SEC. 1440. PAYOR OF LAST RESORT.	There is no analogue in Federal Law (Part B of IDEA) for students over age 3. Minnesota Law is consistent with Federal Law (Part C of IDEA) for students who are ages 0 - 3.

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(120.17 Subdivision 15, Continued) cost-effective manner; or (3) reallocate reimbursements for the benefit of students with special needs in the district. (d) To the extent required by federal law, a school district may not require parents of children with disabilities, if they would incur a financial cost, to use private or public health coverage to pay for the services that must be provided under an individual education plan. (e) When obtaining informed consent, consistent with sections 13.05, subdivision 4, paragraph (d); and 256B.77, subdivision 2, paragraph (p), to bill health plans for covered services, the school district must notify the legal representative (1) that the cost of the person's private health insurance premium may increase due to providing the covered service in the school setting, (2) that the school district may pay certain enrollee health plan costs, including but not limited to, copayments, coinsurance, deductibles, premium increases or other enrollee cost-sharing amounts for health and related services required by an individual service plan, or individual family service plan, and (3) that the school's billing for each type of covered service may affect service limits and prior authorization thresholds. The informed consent may be revoked in writing at any time by the person authorizing the billing of the health plan. (f) To the extent required by federal law, no school district may deny, withhold, or delay any service that must be provided under an individual education plan because a family has refused to provide informed consent to bill a health plan for services or a health plan company has refused to pay any, all, or a portion of the cost of services billed. (g) A school district may disclose information contained in a student's individual education plan, consistent with section 13.32, subdivision 3(a), including records of the student's diagnosis and treatment, to a health plan company only with the signed and dated consent of the student's parent, or other legally authorized individual. The school district shall disclose only that information necessary for the health plan company to decide matters of coverage and payment. A health		

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(120.17 Subdivision 15, Continued) plan company may use the information only for making decisions regarding coverage and payment, and for any other use permitted by law.		
Subd. 16. Community transition interagency committee. A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish a community transition interagency committee for youth with disabilities, beginning at grade 9 or age equivalent, and their families. Members of the committee shall consist of representatives from special education; vocational and regular education; community education; post-secondary education and training institutions; adults with disabilities who have received transition services if such persons are available; parents of youth with disabilities; local business or industry; rehabilitation services; county social services; health agencies; and additional public or private adult service providers as appropriate. The committee shall elect a chair and shall meet regularly. The committee shall: (1) identify current services, programs, and funding sources provided within the community for secondary and post-secondary aged youth with disabilities and their families; (2) facilitate the development of multiagency teams to address present and future transition needs of individual students on their individual education plans; (3) develop a community plan to include mission, goals, and objectives, and an implementation plan to assure that transition needs of individuals with disabilities are met; (4) recommend changes or improvements in the community system of transition services; (5) exchange agency information such as appropriate data, effectiveness studies, special projects, exemplary programs, and creative funding of programs; and (6) following procedures determined by the commissioner, prepare a yearly summary assessing the progress of transition services in the community including follow-up of individuals with disabilities who were provided transition services to determine postschool outcomes. The summary must be	Public Law 105-17 does not address the content of this Section	There is no analogue in Federal Law.

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(120.17 Subdivision 16, Continued) disseminated to all adult services agencies involved in the planning and to the commissioner of children, families, and learning by October 1 of each year.		
Subd. 18. Agency access to nonpublic data. The commissioner of administration shall prepare a form and disseminate guidelines for state agencies, political subdivisions, and other responsible authorities to use to enable a responsible authority to allow another responsible authority access to data about a child with a disability that is classified as not public. The form and guidelines must be consistent with section 13.05, subdivision 9, and federal law, and are not subject to the rulemaking requirements under chapter 14.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 19. Parent advisory committees. Provisions of Minnesota Rules, part 3525.1100, regarding parent advisory committees shall apply to local school boards or cooperative boards carrying out the provisions of this section.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
120.1701 Interagency early childhood intervention system.		
Subdivision 1. Purpose. It is the policy of the state to develop and implement comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.	<i>Public Law 105-17 does not address the content of this Section</i>	
Subd. 4. Responsibilities of county boards and school boards. (a) It is the joint responsibility of county boards and school boards to coordinate, provide, and pay for appropriate services, and to facilitate payment for services from public and private sources. Appropriate services for children eligible under section 120.03 must be determined in consultation with parents, physicians, and other educational, medical, health, and human services providers. The services provided must be in conformity with an IFSP for each eligible infant and toddler from birth through age two and its family, or an individual education plan (IEP) or individual service plan (ISP) for each eligible child ages three through four. (b) Appropriate services include family education and counseling, home visits, occupational and physical therapy.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law, but Minnesota Law is consistent with then current Federal Rule, which is not expected to change. Minnesota Law exceeds Federal

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(120.1701 Subdivision 4, Continued) speech pathology, audiology, psychological services, special instruction, nursing, respite, nutrition, assistive technology, transportation and related costs, social work, vision services, case management including service coordination under subdivision 8, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable children with disabilities to benefit from early intervention services. (d) School and county boards may develop an interagency agreement according to subdivision 13 to establish agency responsibility that assures that early intervention services are coordinated, provided, paid for, and that payment is facilitated from public and private sources. (e) County and school boards shall jointly determine the primary agency in this cooperative effort and must notify the commissioner of the state lead agency of their decision.	SEC. 1432. DEFINITIONS. (4) <i>Public Law 105-17 does not address the content of this Section</i>	requirements due to the inclusion of respite care as an entitled service. There is no analogue in Federal Law.
Subd. 5. Interagency early intervention committees. (a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, shall establish an interagency early intervention committee for children with disabilities under age five and their families. Committees shall include representatives of local and regional health, education, and county human service agencies; county boards; school boards; early childhood family education programs; parents of young children with disabilities under age 12; current service providers; and may also include representatives from other private or public agencies. The committee shall elect a chair from among its members and shall meet at least quarterly. (b) The committee shall develop and implement interagency policies and procedures concerning the following ongoing duties: (1) develop public awareness systems designed to inform potential recipient families of available programs and services; (2) implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities and their families; (3) establish and evaluate the identification, referral,	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law, but Minnesota Law is consistent with then current Federal Rule, which is not expected to change.

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(120.1701 Subdivision 5, Continued) child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements; (4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies. Agencies are encouraged to develop individual family service plans for children with disabilities, age three and older; (5) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs; (6) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services; (7) identify the current services and funding being provided within the community for children with disabilities under age five and their families; (8) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and United States Code, title 20, Section 631, et seq. (Chapter I, Public Law Number 89-313); and (9) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public. (c) The local committee shall also: (1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families; (2) review and comment on the early intervention section of the total special education system for the district, the county social service plan, the section or sections of the community		

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(120.1701 Subdivision 5, Continued) health services plan that address needs of and service activities targeted to children with special health care needs, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities; and		
(d) The summary must be organized following a format prescribed by the commissioner of the state lead agency and must be submitted to each of the local agencies and to the state interagency coordinating council by October 1 of each year. The departments of children, families, and learning, health, and human services must provide assistance to the local agencies in developing cooperative plans for providing services.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 6. Local primary agency. (a) The local primary agency shall: (1) facilitate the development of annual fund requests that identify arrangements with other local and regional agencies providing services as part of the state's early childhood intervention system and that result in service availability on a year-round basis, as necessary; (2) administer funds received through the annual fund request; (3) provide oversight for data collection efforts; (4) facilitate completion of interagency early intervention committee duties as indicated in subdivision 5; (5) request mediation from the state lead agency, if necessary; (6) request assistance from the state lead agency when disputes between agencies cannot be resolved within 20 calendar days; and (7) receive written requests from parents for matters that may be resolved through due process hearings. (b) When the local primary agency is not an education agency, resources distributed under the early intervention fund shall be transferred from a local educational agency to a noneducation agency using a state provided contract. A local primary agency may budget for indirect costs at an amount not to exceed five percent of the amount allocated from the early intervention fund.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law, but Minnesota Law is consistent with then current Federal Rule, which is not expected to change.

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(120.1701, Continued) Subd. 8. Service coordination. (a) The team developing the individualized family service plan under subdivision 7 shall select a service coordinator to carry out service coordination activities on an interagency basis. Service coordination must actively promote a family's capacity and competency to identify, obtain, coordinate, monitor, and evaluate resources and services to meet the family's needs. Service coordination activities include: (1) coordinating the performance of evaluations and assessments; (2) facilitating and participating in the development, review, and evaluation of individualized family service plans; (3) assisting families in identifying available service providers; (4) coordinating and monitoring the delivery of available services; (5) informing families of the availability of advocacy services; (6) coordinating with medical, health, and other service providers; (7) facilitating the development of a transition plan at least six months prior to the time the child is no longer eligible for early intervention services, if appropriate; (8) managing the early intervention record and submitting additional information to the local primary agency at the time of periodic review and annual evaluations; and (9) notifying a local primary agency when disputes between agencies impact service delivery required by an individualized family service plan.	SEC. 1437 (a) (8) (ii) (II)	Minnesota Law exceeds Federal requirements due to the the provision of a 90 day timeline (7) rather than 6 months.
Subd. 8a. Early intervention respite. The provision of respite services for an eligible child and family shall be determined in the context of the IFSP development based on the individual needs of the child and family and with consideration given to the following criteria: (1) severity of the child's disability and needs; (2) potential risk of out-of-home placement for the child if respite services are not provided; (3) parental lack of access to informal support systems,	SEC. 1432. DEFINITIONS. (4)	Minnesota Law exceeds Federal requirements due to the inclusion of respite care as an entitled service.

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(120.1701, Continued) including, but not limited to, extended family, supportive friends, and community supports; (4) presence of factors known to increase family stress, including, but not limited to, family size and presence of another child or family member with a disability; (5) the availability of other public services provided to the family which assist the parent or primary caretaker in obtaining relief from caretaking responsibilities; and (6) the perceived and expressed level of need for respite services by the parent. Counties are encouraged to make a variety of respite service models available, which may include in or out-of-home respite, family reimbursement programs, and parent-to-parent respite projects.		
Subd. 9. Early intervention service dollars.		
(d) Each county board must continue to spend for early intervention services under subdivision 2, paragraph (e), an amount equal to the total county expenditure during the period from January 1, 1993, to December 31, 1993, for these same services. The commissioner of human services, in consultation with the commissioner of health and the association of Minnesota counties, shall establish a process for determining base year 1993 expenditures. (e) County boards that have submitted base year 1993 expenditures as required under paragraph (d) are not required to pay any increased cost over the base year 1993 for early intervention services resulting from implementing the early intervention system. Increased costs to county boards may be paid for with early intervention flow-through dollars.	Public Law 105-17 does not address the content of this Section	There is no analogue in Federal Law, but Minnesota Law is consistent with then current Federal Rule, which is not expected to change.
(f) School boards are not required to pay for services defined in subdivision 4, paragraph (c), clause (2).	Public Law 105-17 does not address the content of this Section	There is no analogue in Federal Law.
Subd. 12. Maintenance of effort. A county human services agency or county board shall continue to provide services set forth in their county social service agency plan. The county human services agency or county board shall serve children with disabilities under age five, and their families, or as specified in the individualized family service plan for children with disabilities, birth through age two, or the	Public Law 105-17 does not address the content of this Section	There is no analogue in Federal Law, but Minnesota Law is consistent with then current Federal Rule, which is not expected to change.

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individual service plan of each child. Special instruction and related services for which a child with a disability is eligible under this section are the responsibility of the local school board. It is the joint responsibility of county boards and school boards to coordinate, provide, and pay for all appropriate services required in subdivision 11b and to facilitate payment for services from public and private sources.		
Subd. 15. Benefits coordination. The department of health shall provide technical assistance in a timely manner to service coordinators, parents of children with disabilities, and agencies in situations requiring the coordination of health insurance benefits, or the identification of third-party payor responsibilities to provide necessary health benefits.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law, but Minnesota Law is consistent with then current Federal Rule, which is not expected to change.
Subd. 17. [MEDIATION PROCEDURE.] The commissioner, or the commissioner's designee, of the state lead agency shall use federal funds to provide mediation for the activities in paragraphs (a) and (b). (b) Resolution of a dispute through mediation, or other form of alternative dispute resolution, is not limited to formal disputes arising from the objection of a parent or guardian (c) The commissioner shall provide training and resources to school districts to facilitate early identification of disputes and access to mediation.	SEC. 1415. PROCEDURAL SAFEGUARDS. (e) MEDIATION <i>Public Law 105-17 does not address the content of this Section</i> <i>Public Law 105-17 does not address the content of this Section</i>	Minnesota Law is consistent with Federal requirements. There is no analogue in Federal Law. There is no analogue in Federal Law.
120.172 Legislative commitment to conciliation.	<i>Public Law 105-17 does not address the content of this Section</i>	
Subdivision 1. Policy statement. The legislature finds that conciliation conferences pursuant to section 120.17 serve better than formal hearings to promote communications between parents and school staff and to reach prompt, shared decisions about educational programs for children with a disability. Further, the legislature urges the United States department of education and the United States office of civil rights to acknowledge that the conciliation conference process violates no federal statute or regulation. Subd. 2. State plan. The state board of education shall not adopt any provision in the state plan for special education which reduces the opportunities for parents and school districts to resolve their differences through conciliation.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

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120.173 Alternative delivery of specialized instructional services.		
Subd. 6. Pupil rights. A pupil participating in the program must be individually evaluated according to the pupil's actual abilities and needs. A pupil who is eligible for services under section 120.17 is entitled to procedural protections provided under Public Law Number 94-142 in any matter that affects the identification, evaluation, placement, or change in placement of a pupil. The district must ensure the protection of a pupil's civil rights, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district to become ineligible to participate in the program. Notwithstanding rules of the state board of education, a pupil's rights under this section cannot be waived by the state board.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
120.1811 Residential treatment facilities; education.		
Subdivision 1. Educational screening. Secure and nonsecure residential treatment facilities licensed by the department of human services or the department of corrections shall screen each juvenile who is held in a facility for at least 72 hours, excluding weekends or holidays, using an educational screening tool identified by the department of children, families, and learning, unless the facility determines that the juvenile has a current individual education plan and obtains a copy of it. The department of children, families, and learning shall develop or identify an education screening tool for use in residential facilities. The tool must include a life skills development component.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
Subd. 2. Rulemaking. The state board of education may, in consultation with the commissioners of corrections and human services, make or amend rules relating to education programs in residential treatment facilities, if necessary, to implement this section.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.
120.182 Special education director. The authority for the selection and employment of the director of a special education cooperative established pursuant to section 120.17 or 471.59 shall be vested in the governing board of the cooperative. Notwithstanding the provisions of section 125.12, subdivision 6a or 6b, no individual shall have a	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

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(120.182, Continued) right to employment as a director based on seniority or order of employment by the cooperative.		
120.183 Interagency office on transition services. The commissioner of children, families, and learning shall establish an interagency office on transition services to: (1) gather and coordinate data on transition services for secondary age pupils with a disability; (2) provide information, consultation, and technical assistance to state and local agencies involved in the delivery of services to pupils with a disability in transition from secondary school programs to employment and post-secondary training programs; (3) assist agencies in establishing local interagency agreements to assure the necessary services for efficient and appropriate transition from school to work or post-secondary training programs; and (4) assist regions and local areas in planning interagency in-service training to develop and improve transition services.	<i>Public Law 105-17 does not address the content of this Section</i>	There is no analogue in Federal Law.

Minnesota State Rule (M.R. 3525)
and
United States Public Law 105-17
A Comparison of Requirements

This report is presented in fulfillment of the legislative mandate set forth as follows:

Minnesota Session Laws - 1998

CHAPTER 398-H.F.No. 2874

ARTICLE 2 - SPECIAL EDUCATION

Sec. 54. [REPORT TO COMPARE FEDERAL AND STATE SPECIAL EDUCATION LAW.]

Subdivision 1. [REPORT.] The commissioner of children, families, and learning shall prepare a report comparing existing and currently proposed federal laws and regulations and state laws and rules governing special education, indicating those state laws and rules governing special education that exceed or expand upon minimum requirements under federal special education law or regulations. The commissioner shall make the report available by September 30, 1998, to the public, the state board of education, and the education committees of the legislature for consideration of amending state rules.

Instances of apparent breaks in numbering sequence within the document are the result of repeals by the State Board of Education or as shown to the right.

For the purposes of this report, and in the interests of conciseness, those portions of Minnesota rule governing special education which are consistent with federal law have been omitted. These items are listed to the right. Items listed as consistent are not identical to federal language, and often add clarity to assist Minnesota districts in the application of Federal Law and Rule.

M.R. 3525.0200, Subpart 1c	M.R. 3525.4400
Subpart 1f	M.R. 3525.4500
Subpart 7a	M.R. 3525.4600
M.R. 3525.0300	M.R. 3525.4700
M.R. 3525.0400	M.R. 3525.3700, Subpart 3
M.R. 3525.0700	
M.R. 3525.1100	
M.R. 3525.1150, Subpart 3 A	
M.R. 3525.1550, Subpart 1	
M.R. 3525.2325, Subpart 2	
Subpart 3	
M.R. 3525.2350, Subpart 1	
Subpart 2	
Subpart 3	
Subpart 4	
M.R. 3525.2435	
M.R. 3525.2440	
M.R. 3525.2445	
M.R. 3525.2450	
M.R. 3525.2455	
M.R. 3525.2650, Subparts 1 & 2	
M.R. 3525.3300, Parts A, E, G through L, N through Q, S, U, and V.	
M.R. 3525.3500, Parts A through E	
M.R. 3525.3600, Parts A and B	
M.R. 3525.3900	
M.R. 3525.4000	
M.R. 3525.4100	
M.R. 3525.4200	
M.R. 3525.4300	

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Minnesota Rules - Chapter 3525 Current as of 11/20/97	Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17)	Comments
3525.0200 DEFINITIONS FOR SPECIAL EDUCATION.		
Subpart 1. Scope. As used in parts 3525.0200 to 3525.4700, the terms defined in this part have the meanings given them.		
Subp. 1a. Administrator or administrative designee. "Administrator" or "administrative designee" means a representative of the school district, other than the pupil's teacher, who is licensed to provide or supervise the provision of special education and who has the authority to make decisions about the appropriateness of the proposed program and who has the authority to commit the responsible district's resources.	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (d) INDIVIDUALIZED EDUCATION PROGRAMS (1) DEFINITIONS (B) INDIVIDUALIZED EDUCATION PROGRAM TEAM	Federal Law exceeds Minnesota Rule requirements because Federal Law requires that the district representative be "knowledgeable about the general curriculum."
Subp. 1b. Aids. "Aids" means equipment, devices, and materials and curriculum adaptations which enable a pupil to achieve satisfactorily in the regular classroom.	SEC. 1402. DEFINITIONS. (1) ASSISTIVE TECHNOLOGY DEVICE (6) EQUIPMENT	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 1d. Aversive procedure. "Aversive procedure" means the planned application of an aversive stimulus: (1) contingent upon the occurrence of a behavior identified for reduction or elimination in the IEP; or (2) in an emergency situation governed by subpart 2c.	-	There is no analogue in Federal Law.
Subp. 1e. Aversive stimulus. "Aversive stimulus" means an object that is used, or an event or situation that occurs immediately after a specified behavior in order to suppress that behavior.		There is no analogue in Federal Law.
Subp. 1g. Conditional procedures. "Conditional procedures" means interventions that meet the definitions of aversive and deprivation procedures which are not prohibited. Conditional procedures include: A. the use of manual restraint; B. the use of mechanical or locked restraints; C. time out procedures for seclusion; and D. temporary delay or withdrawal of regularly scheduled meals or water not to exceed 30 minutes except as provided in subpart 2a.		There is no analogue in Federal Law.

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Subp. 2. Days. "Days" means the days school is in session when used in parts 3525.1100 to 3525.3600. "Days" means calendar days when used in parts 3525.3700 to 3525.4700.		There is no analogue in Federal Law.
Subp. 2a. Deprivation procedure. "Deprivation procedure" means the planned delay or withdrawal of goods, services, or activities that the pupil would otherwise receive: (1) contingent upon the occurrence of a behavior identified for reduction or elimination on the IEP; or (2) in an emergency situation governed by subpart 2c.		There is no analogue in Federal Law.
Subp. 2b. Direct services. "Direct services" means special education services provided by a teacher or a related service professional when the services are related to instruction, including cooperative teaching.		There is no analogue in Federal Law.
Subp. 2c. Emergency. "Emergency" means a situation in which immediate intervention is necessary to protect a pupil or other individual from physical injury, emotional abuse due to verbal and nonverbal threats and gestures, or to prevent severe property damage. The emergency intervention must be the least intrusive intervention possible to reasonably react to the emergency situation. This subpart does not prohibit staff persons from using reasonable force to protect themselves or other pupils or students as provided in Minnesota Statutes, section 609.379.		There is no analogue in Federal Law.
Subp. 3a. Functional skills assessment. "Functional skills assessment" means the use of test instruments and assessment procedures to determine current levels of skill development and factors relevant to: A. independence and self-sufficiency in school, home, and community settings; B. freedom to participate in leisure activities; and C. postsecondary and other life long learning opportunities.		There is no analogue in Federal Law.
Subp. 4a. Functional skills. "Functional skills" means skills to increase performance and independence at work, in school, in the home, in the community, for leisure time, and for postsecondary and other life long learning opportunities.		There is no analogue in Federal Law.

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Subp. 6a. Individual education program plan or IEP. "Individual education program plan" or "IEP" means a written individualized educational plan annually developed for a pupil. It is based on an assessment of the pupil's performance, presenting problems and its effect on learning in appropriate settings.	SEC. 1402. DEFINITIONS. (11) INDIVIDUALIZED EDUCATION PROGRAM SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (d) INDIVIDUALIZED EDUCATION PROGRAMS- (1) DEFINITIONS (A) INDIVIDUALIZED EDUCATION PROGRAM	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 8a. Initial placement. "Initial placement" means the first special education placement and provision of special education services by the district.	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (a) EVALUATIONS AND REEVALUATIONS- (1) INITIAL EVALUATIONS-	Minnesota Rule exceeds Federal requirements because Federal Law applies only to the first placement in the State.
Subp. 8c. Indirect services. "Indirect services" means special education services which include ongoing progress reviews; cooperative planning; consultation; demonstration teaching; modification and adaptation of the environment, curriculum, materials, or equipment; and direct contact with the pupil to monitor and observe. Indirect services may be provided by a teacher or related services professional to another regular education, special education teacher, related services professional, paraprofessional, support staff, parents, and public and nonpublic agencies to the extent that the services are written in the pupil's IEP and IFSP.		There is no analogue in Federal Law.
Subp. 8d. Individualized family service plan or IFSP. "Individualized family service plan" or "IFSP" means a written plan for providing services to a pupil and the pupil's family through interagency agreements. Procedural and program requirements for the IEP also apply to the educational components of the IFSP.	SEC. 1402. DEFINITIONS. (12) INDIVIDUALIZED FAMILY SERVICE PLAN SEC. 1436. INDIVIDUALIZED FAMILY SERVICE PLAN.	Federal Law exceeds Minnesota Rule requirements because of the six month intervals included in the IFSP specifications.
Subp. 8e. Manual restraint. "Manual restraint" means physical intervention intended to hold a person immobile or limit a person's movement by using body contact as the only source of physical restraint.		There is no analogue in Federal Law.

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Subp. 8f. Mechanical restraint. "Mechanical restraint" means the use of devices such as mittens, straps, or restraint chairs to limit a person's movement or hold a person immobile as an intervention precipitated by the person's behavior. Mechanical restraint applies to uses intended to prevent injury with persons who engage in behaviors such as head-banging, gouging, or other self-injurious actions that result in tissue damage and medical problems. Mechanical restraint does not apply to restraint used to treat a person's medical needs or to position a person with physical disabilities.		There is no analogue in Federal Law.
Subp. 10. Nondiscrimination. "Nondiscrimination" means a requirement that districts shall comply with chapter 3535 and Minnesota Statutes, chapter 363.		There is no analogue in Federal Law.
Subp. 10a. Paraprofessional. "Paraprofessional" means a district employee who is primarily engaged in direct interaction with one or more pupils for instructional activities, physical or behavior management, or other purposes under the direction of a regular education or special education teacher or related services provider.		Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 11a. Parent or parents. For a pupil under age 18, "parent" or "parents" means the mother, father, guardian, person acting as the parent of the child, conservator, or surrogate parent who has been appointed in accordance with parts 3525.2435 to 3525.2455. For a pupil age 18 or over, "parent" or "parents" also includes the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator. When the parents are separated or divorced, it means the parent who has the legal right, by court decree or agreement, to determine the pupil's education, even though the pupil may be living with the other parent.	SEC. 1402. DEFINITIONS. (19) PARENT SEC. 1415. PROCEDURAL SAFEGUARDS. (m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY	Minnesota Rule is obsolete due to changes in State Law
Subp. 15a. Providing district. "Providing district" means a district with the responsibility of providing special education services to a pupil according to part 3525.0800.		There is no analogue in Federal Law.
Subp. 16a. Pupil. "Pupil" means a student or other person who is eligible for special education according to Minnesota	SEC. 1402. DEFINITIONS. (3) CHILD WITH A DISABILITY	Minnesota Rule is consistent

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Statutes, sections 120.03 and 120.17.	(13) INFANT OR TODDLER WITH A DISABILITY PART C--INFANTS AND TODDLERS WITH DISABILITIES SEC. 1432. DEFINITIONS. (1) AT-RISK INFANT OR TODDLER (5) INFANT OR TODDLER WITH A DISABILITY	with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 17a. Recognized professional standards. "Recognized professional standards" means reasonable principles and concepts widely accepted by acknowledged experts that bear a direct relationship to the particular needs of the pupil.		Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 18a. Regular education program. "Regular education program" means the program in which the pupil would be enrolled if the pupil did not have disabilities.		Minnesota Rule is obsolete.
Subp. 19a. Resident district. "Resident district" means the district in which the pupil's parent, as defined by parts 3525.0200, subpart 11a, and 3525.0800, subpart 9, resides. It does not mean the district in which a surrogate parent resides. If the parents of the pupil are separated or divorced and both maintain legal rights to determine the pupil's education, but are living in different districts, the district of residence is the district in which the pupil primarily resides for the greater part of the school year. In those situations when a pupil is placed for care and treatment or foster care by an agency other than the school district, the district of residence is the district in which the pupil's parent resides or the district designated by the commissioner as provided in Minnesota Statutes, section 120.17, subdivisions 6 and 8a. If the parents of the pupil are separated or divorced and both maintain legal rights to determine the pupil's education, but are living in different districts, the district of residence is the district last responsible for education services when the pupil resided with either parent.		There is no analogue in Federal Law. Portions of this Minnesota Rule are obsolete due to changes in State Law
Subp. 19b. Significant change in program or placement. "Significant change in program or placement" means:		There is no analogue in Federal

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A. the IEP goals have been completed or require modification based on a periodic review; B. there is a need to add or delete a service based on a periodic review or assessment; C. there is a change in the type of site or setting in which the pupil receives special education; D. the amount of time a pupil spends with nondisabled peers is changed; E. the amount of special education to accomplish the goals or objectives needs to be increased or decreased; or F. the team determines there is a need for a conditional intervention procedure.		Law.
Subp. 20a. Special education. "Special education" means any specially designed instruction and related services to meet the unique cognitive, academic, communicative, social and emotional, motor ability, vocational, sensory, physical, or behavioral and functional needs of a pupil as stated in the IEP.	SEC. 1402. DEFINITIONS. (25) SPECIAL EDUCATION	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 20b. Surrogate parent. "Surrogate parent" means a person appointed by the providing district to intervene on behalf of a pupil, to help ensure that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to educate or care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interest exists.		There is no analogue in Federal Law.
Subp. 24. Teacher. "Teacher" means a person licensed under parts 8700.5501 to 8700.5511 by the Board of Teaching to instruct pupils with specific disabling conditions.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (15) PERSONNEL STANDARDS	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 25. Technically adequate instrument. "Technically adequate instrument" means tests and assessment procedures for which recognized professional standards about construction, validity, reliability, and use have been met.	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (b) EVALUATION PROCEDURES (3) ADDITIONAL REQUIREMENTS	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
Subp. 25a. Time out for exclusion. "Time out for exclusion" involves procedures which remove a pupil from the		There is no analogue in Federal

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regularly scheduled education program for brief periods not to exceed 30 minutes. Time out for exclusionary purposes is not regulated by this chapter.		Law.
Subp. 25b. Time out for seclusion. "Time out for seclusion" involves procedures which place the pupil in a specially designated isolation room or similar space.		There is no analogue in Federal Law.
Subp. 26. Vocational assessment. "Vocational assessment" means an ongoing, comprehensive process used to assist the pupil and the team to determine the pupil's strengths, interests, abilities, and needed support to be successful in a vocational setting. A vocational assessment is one component of the ongoing special education multidisciplinary assessment described in parts 3525.2550 to 3525.2750.		There is no analogue in Federal Law.
3525.0550 PUPIL IEP MANAGER. The district shall assign a teacher or licensed related service staff who is a member of the pupil's IEP team as the pupil's IEP manager to coordinate the instruction and related services for the pupil. The IEP manager's responsibility shall be to coordinate the delivery of special education services in the pupil's IEP and to serve as the primary contact for the parent. A district may assign the following responsibilities to the pupil's IEP manager: assuring compliance with procedural requirements; communicating and coordinating among home, school, and other agencies; regular and special education programs; facilitating placement; and scheduling team meetings.		There is no analogue in Federal Law.
3525.0750 IDENTIFICATION OF CHILDREN WITH DISABILITIES. School districts shall develop systems designed to identify persons with disabilities beginning at birth, students with disabilities attending school, and persons with disabilities who are of school age and are not attending any school. The district's identification system shall be developed in accordance with the requirement of nondiscrimination and included in the district's total special education system plan.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (3) CHILD FIND-	Federal Law exceeds Minnesota Rule requirements because Federal Law also requires the identification of children with disabilities enrolled in non-public schools.

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3525.0800 RESPONSIBILITY FOR ENSURING PROVISION OF INSTRUCTION AND SERVICES.		
Subpart 1. Pupil's district of residence. As provided in Minnesota Statutes, section 120.17, subdivision 2, a pupil's district of residence is responsible for assuring that an appropriate program is provided for all eligible pupils placed by the district's team within the district or in an out-of-district placement regardless of the method or location of instruction used.		There is no analogue in Federal Law.
Subp. 2. Purchased services. The district shall not purchase special educational services for a pupil from a public or private agency when such service is available or can be made available and can be more appropriately provided as the least restrictive alternative within the district. Whenever it is appropriate for a district to purchase special education service for pupils with disabilities and who reside in the district, it continues to be the responsibility of the school district, consistent with the provisions of Minnesota Statutes and parts 3525.0200 to 3525.4700, to assure and ascertain that such pupils and youth receive the education and related services and rights to which they are entitled.		There is no analogue in Federal Law.
Subp. 3. Initial activities. The resident district is responsible for the pupil's initial assessment, initial IEP, due process procedures, and initial placement regardless of whether the placement is within the district or outside the district, unless the pupil is placed for care and treatment or through one of the education choice options. If the team determines that it may be appropriate to consider placement options outside of the resident district, representatives from the outside district, agency, or academy must be invited to attend a team meeting as a participant to complete an appropriate IEP for the pupil including the needs, goals, objectives, services, and placement of the pupil.		There is no analogue in Federal Law.
Subp. 4. Resident district responsibilities; district initiated out-of-district placement. If the resident district places a pupil in an out-of-district placement, the resident		There is no analogue in Federal Law.

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district is still responsible to assure that an appropriate IEP is developed, that the pupil is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed. It is the responsibility of the providing district, agency, or academy to implement the IEP, conduct periodic and annual reviews, convene and facilitate the IEP team meeting, and assure that due process procedures associated with these responsibilities are followed. The annual IEP must be developed jointly by the providing district, agency, or academy and resident district. The resident district may appoint a member of the providing district as its representative.		
Subp. 5. Responsibility for disagreements. The resident district is responsible for resolving disagreements between the pupil's parents and district, including conciliation and due process hearings when the placement has been made by the resident district. If the providing district, agency, or academy receives a request for a conciliation conference, mediation, or due process hearing from the parent, the providing district, agency, or academy must notify the resident district of the parent's request within one school day.		There is no analogue in Federal Law.
Subp. 6. Tuition rate appeal. If the districts do not agree on the tuition rate, either district may appeal to the commissioner as provided in Minnesota Statutes, section 120.17 subdivision 4. Subp. 7. Pupils placed for care and treatment. The educational and financial responsibilities of the resident and providing districts for pupils placed for care and treatment under Minnesota Statutes, section 120.17, subdivisions 6 and 7, are as follow: A. District placements: If the resident district places a pupil for care and treatment, the resident district shall be responsible for providing and paying for an appropriate education program in accordance with part 3525.2320 and this part, either directly or through tuition agreement, and shall also be responsible for the costs associated with care and treatment.		There is no analogue in Federal Law.

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B. Nondistrict placement: (1) When the pupil is placed in a residential facility or foster care by someone other than the resident district, the district in which the facility is located is responsible for providing an appropriate education program as set forth in statutes and parts 3525.0200 to 3525.4700 including the notice and hearing provisions. The resident district is responsible for assuming the cost of the educational program when notified in accordance with Minnesota Statutes, sections 120.17, subdivision 6, and 124A.036. The district is not responsible for the cost of care and treatment. (2) When the pupil is placed in a day treatment program by an agency other than the resident district, the resident district is responsible for determining the location of the special education services in accordance with the options outlined in Minnesota Statutes, section 120.17, subdivision 6. The resident district shall be responsible for ensuring that an appropriate program is provided in accordance with subparts 4 to 6, including all costs for the education program and any due process proceedings regardless of the method or locations of services selected.		
Subp. 8. Pupils placed through education choice options. When a pupil is placed outside of the district residence by the parent or pupil for the purpose of education and in accordance with a statutory education choice enrollment act, the resident district shall be responsible for assuming the cost of the education program when notified in accordance with Minnesota Statutes, section 124A.036, subdivision 3. The providing district shall be responsible for assuring that an appropriate program is available for the pupil including the notice and hearing provisions. Responsibility for transportation costs between the pupil's home and the providing school district shall be determined in accordance with Minnesota Statutes.		There is no analogue in Federal Law.
Subp. 9. Financial and legal responsibility for pupils 18 through 21. For a pupil who is age 18 through 21 years of age and is receiving special education, the district where the pupil's parents, legal guardian, or conservator lives shall be financially responsible for the cost of the special education		There is no analogue in Federal Law.

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program even in those cases where the pupil serves as the parent according to part 3525.0200, subpart 11a, for due process purposes.		
3525.0850 BEHAVIOR INTERVENTIONS. This policy is intended to encourage the use of positive approaches to behavioral interventions. The objective of any behavioral intervention must be that pupils acquire appropriate behaviors and skills. It is critical that behavioral intervention programs focus on skills acquisition rather than merely behavior reduction or elimination. Behavioral intervention policies, programs, or procedures must be designed to enable a pupil to benefit from an appropriate, individualized educational program as well as develop skills to enable them to function as independently as possible in their communities.	SEC. 1415. PROCEDURAL SAFEGUARDS. (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING- (A) AUTHORITY OF SCHOOL PERSONNEL (II) (B)	There is no direct analogue in Federal Law, but this item is consistent with related Federal provisions.
3525.1150 PROVIDING SPECIAL EDUCATION TO SHARED-TIME PUPILS.		
Subpart 1. Availability to nonpublic school students. Districts shall identify and make available special education to all students who are disabled regardless of whether they attend a nonpublic school. For those students who attend a nonpublic school according to Minnesota Statutes, section 124A.034, and who are referred for special education services, the district shall inform parents of their right to special education services for eligible students.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (10) CHILDREN IN PRIVATE SCHOOLS	Minnesota Rule exceeds Federal requirements. Federal Law requires service to students in private schools ONLY to the extent of Federal funding, while Minnesota Rule provides for full service and due process rights for these students.
Subp. 2. Assessment. In the assessment or provision of special education to eligible pupils, the district may: A. assess the student at the nonpublic school, including observing the student in the classroom as part of the formal assessment; B. meet periodically with the nonpublic school staff to review progress of the pupil in the pupil's special education program; C. periodically observe the pupil in the nonpublic school classroom to evaluate the result of the special education provided; and	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (10) CHILDREN IN PRIVATE SCHOOLS- (A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS-	Minnesota Rule exceeds Federal requirements. Federal Law requires service to students in private schools ONLY to the extent of Federal funding, while Minnesota Rule provides for full service and due process rights for these students.

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D. hold IEP or IFSP meetings at the nonpublic school. Special education services provided indirectly or directly to the pupil must be provided at a neutral site that is consistent with Minnesota Statutes, section 123.932, subdivision 9. The district may provide indirect or consultative special education services to the pupil's nonpublic school on the specific skills identified in the pupil's IEP by phone or at a meeting in a neutral site.		
Subp. 3. Provision of special education. In the assessment or provision of special education to eligible pupils, the district shall B. provide necessary transportation for a pupil to receive special education from the nonpublic school to the neutral site where special education is provided on a shared-time basis. If the resident pupil attends a nonpublic school located in a district contiguous to the resident district and no agreement exists under Minnesota Statutes, section 124A.034, the district of residence shall provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility where special education is to occur. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school shall pay the costs of the transportation provided outside the district boundary.		Minnesota Rule exceeds Federal requirements. Federal Law requires service to students in private schools ONLY to the extent of Federal funding, while Minnesota Rule provides for full service and due process rights for these students.
3525.1310 STATE AID FOR SPECIAL EDUCATION PERSONNEL. Salaries for essential personnel who are teachers, related services, and support services staff members are reimbursable for the following activities: A. child find and pupil identification; B. necessary short-term indirect or consultative services that are provided in conjunction with regular education prereferral activities to an individual suspected of having a disabling condition to determine whether referrals for assessments shall be made; C. assessment and IEP planning for individual pupils; D. instruction or related and support services to		There is no analogue in Federal Law.

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pupils who have an IEP; E. parental involvement and due process; F. school psychological services and school social worker services provided for pupils identified as emotional or behavioral disordered according to parts 3525.1329 and 3525.2900 alone or in conjunction with the instructional program outlined in any pupil's IEP; G. other related services provided in conjunction with the instructional program as outlined in the pupil's IEP; and H. paraprofessional services provided under the direction of a regular or special education teacher or a related services provider. The services must be: (1) to enhance the instruction provided by the teacher or related services staff; and (2) to supplement instructional activities or to provide extended practice in instances in which the paraprofessional has had training and ongoing support from a special education teacher or related services staff. Ongoing services for at-risk students such as truancy, suicide prevention, child abuse, or protection are not reimbursable.		
3525.1325 AUTISM.		
Subpart 1. Definition. "Autism" is a lifelong developmental disability with onset usually in the first three years of life. It is a behaviorally defined syndrome characterized by an uneven developmental profile and disturbances in interaction, communication, and perceptual organization. Autism occurs on a continuum from mild to severe. It occurs by itself or in association with other disorders such as mental retardation or fragile X syndrome. It may include the diagnosis of pervasive developmental disorder. Because of the low incidence and complexity of this disability, professionals with experience and expertise in the area of autism need to be included on the team determining the disability and educational program.		State definitions are consistent with federal definitions which are much more general.

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Subp. 2. Criteria. The team shall determine that a pupil meets criteria for autism according to the Diagnostic and Statistical Manual, Third Revision (DSM-III-R) of the American Psychiatric Association, the current accepted standard in the field. The criteria for autism in (DSM-III-R) are incorporated by reference, DSM-III-R is subject to frequent change and is available through the Minitex interlibrary loan system. Consider a criterion to be met only if the behavior is abnormal for the person's developmental level. DSM-III-R states that a pupil meets criteria when at least eight of the following 16 items are present, these to include at least two items from item A, one from item B, and one from item C: A. qualitative impairment in reciprocal social interaction (the examples within parentheses are arranged so that those first listed are more likely to apply to younger or more disabled, and the later ones, to older or less disabled) as manifested by the following: (1) marked lack of awareness of the existence or feelings of others (for example, treats a person as if that person were a piece of furniture; does not notice another person's distress, apparently has no concept of the need of others for privacy); (2) no or abnormal seeking of comfort at times of distress (for example, does not come for comfort even when ill, hurt, or tired; seeks comfort in a stereotyped way, for example, says "cheese, cheese, cheese" whenever hurt); (3) no or impaired imitation (for example, does not wave bye-bye; does not copy parent's domestic activities; mechanical imitation of others' actions out of context); (4) no or abnormal social play (for example, does not actively participate in simple games; prefers solitary play activities; involves other children in play only as mechanical aids); and (5) gross impairment in ability to make peer friendships (for example, no interest in making peer friendships; despite interest in making friends, demonstrates lack of understanding of conventions of social interaction, for example, reads phone book to uninterested peer); B. qualitative impairment in verbal and nonverbal communication and in imaginative activity, (the numbered items are arranged so that those first listed as more likely to apply		There are no direct analogues to entrance criteria in Federal Law.

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to younger or more disabled, and the later ones, to older or less disabled) as manifested by the following: (1) no mode of communication, such as communicative babbling, facial expression, gesture, mime, or spoken language; (2) markedly abnormal nonverbal communication, as in the use of eye-to-eye gaze, facial expression, body posture, or gestures to initiate or modulate social interaction (for example, does not anticipate being held, stiffens when held, does not look at the person or smile when making a social approach, does not greet parents or visitors, has a fixed stare in social situations); (3) absence of imaginative activity, such as play-acting of adult roles, fantasy characters, or animals; lack of interest in stories about imaginary events; (4) marked abnormalities in the production of speech, including volume, pitch, stress, rate, rhythm, and intonation (for example, monotonous tone, question-like melody, or high pitch); (5) marked abnormalities in the form or content of speech, including stereotyped and repetitive use of speech (for example, immediate echolalia or mechanical repetition of a television commercial); use of "you" when "I" is meant (for example, using "You want cookie?" to mean "I want a cookie"); idiosyncratic use of words or phrases (for example, "Go on green riding" to mean "I want to go on the swing"); or frequent irrelevant remarks (for example, starts talking about train schedules during a conversation about sports); and (6) marked impairment in the ability to initiate or sustain a conversation with others, despite adequate speech (for example, indulging in lengthy monologues on one subject regardless of interjections from others); C. markedly restricted repertoire of activities and interests, as manifested by the following: (1) stereotyped body movements (for example, handflapping or twisting, spinning, head-banging, complex whole-body movements); (2) persistent preoccupation with parts of objects (for example, sniffing or smelling objects, repetitive feeling of texture of materials, spinning wheels of toy cars) or attachment to unusual objects (for example, insists on carrying		

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around a piece of string); (3) marked distress over changes in trivial aspects of environment (for example, when a vase is moved from usual position); (4) unreasonable insistence on following routines in precise detail (for example, insisting that exactly the same route always be followed when shopping); (5) markedly restricted range of interests and a preoccupation with one narrow interest (for example, interested only in lining up objects, in amassing facts about meteorology, or in pretending to be a fantasy character); D. onset during infancy or early childhood; E. other symptoms that may occur with the syndrome: (1) sensory disturbances as evidenced by atypical responses to stimuli (for example, touch, sound, light, movement, smell, taste). Responses may include overreaction, indifference, or withdrawal; and (2) uneven acquisition of skills, and/or difficulty in integrating and generalizing acquired skills; and F. the pupil's need for instruction and services must be supported by at least one documented systematic observation in the pupil's daily routine setting by an appropriate professional and verify the criteria categories in items A to D. In addition, corroboration of developmental or medical information with a developmental history and at least one other assessment procedure that is conducted on a different day must be included. Other documentation should include parent reports, functional skills assessments, adaptive behavior scales, intelligence tests, criterion-referenced instruments, language concepts, developmental checklists, or an autism checklist.		
3525.1327 DEAF-BLINDNESS.		
Subpart 1. Definition and criteria. "Deaf-blindness" means medically verified visual impairment coupled with medically verified hearing impairment that, together, interfere with acquiring information or interacting in the environment. Both conditions need to be present simultaneously and must meet the criteria for both vision and hearing impairments.		State definitions are consistent with federal definitions which are much more general. There are no direct analogues to entrance criteria in Federal

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Subp. 2. Pupils at risk. Pupils at risk for deaf-blindness include, but are not limited to: A. those that are already identified as hearing or vision impaired and have not yet had medical or functional assessment of the other sense (vision or hearing); B. have an identified syndrome, such as Usher Syndrome or Rubella Syndrome, that includes a potential deterioration of vision or hearing in the future; C. those that have a medically or functionally identified hearing impairment and a verified deficit in vision determined by a functional assessment in the learning environment; and D. those that have a medically or functionally identified vision impairment and verified deficit in hearing determined by a functional assessment in the learning environment.		Law. There is no analogue in Federal Law.
3525.1329 EMOTIONAL OR BEHAVIORAL DISORDERS.		
Subpart 1. Definition. "Emotional or behavioral disorder" means an established pattern characterized by one or more of the following behavior clusters: A. severely aggressive or impulsive behaviors; B. severely withdrawn or anxious behaviors, general pervasive unhappiness, depression, or wide mood swings; or C. severely disordered thought processes manifested by unusual behavior patterns, atypical communication styles, and distorted interpersonal relationships. This category may include children or youth with schizophrenic disorders, affective disorders, anxiety disorders, or other sustained disorders of conduct or adjustment when they adversely affect educational performance. The established pattern adversely affects educational performance and results in either an inability to build or maintain satisfactory interpersonal relations necessary to the learning process with peers, teachers, and others, or failure to attain or maintain a satisfactory rate of educational or developmental progress that cannot be improved or explained by addressing intellectual, sensory, health, cultural, or linguistic factors.		State definitions are consistent with federal definitions which are much more general. There are no direct analogues to entrance criteria in Federal Law.

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Subp. 2. Criteria. The team shall determine that a pupil is eligible as having an emotional or behavioral disorder and in need of special education and related services when the pupil meets the criteria in items A to D. A. An established pattern must exist that is characterized by one or more of the following clusters: (1) severely aggressive or impulsive behaviors that are developmentally inappropriate; physically or verbally abusive; impulsive or violent, destructive, or intimidating; threatening to others or excessively antagonistic; (2) severely withdrawn or anxious behaviors, pervasive unhappiness, depression, or wide mood swings that include behaviors as: isolating self from peers; displaying intense fears or school phobia; overly perfectionistic; failing to express emotion, displaying a pervasive sad disposition; developing physical symptoms related to stress or eating problems; or (3) severely disordered thought processes manifested by unusual behavior patterns, atypical communication styles, or distorted interpersonal relationships such as: reality distortion beyond normal developmental fantasy and play or talk; situationally inappropriate laughter, crying, sounds and language; self-mutilation or self-stimulation; rigid, ritualistic patterning; perseveration or obsession with specific objects; overly affectionate behavior towards unfamiliar persons; or hallucinating or delusions of grandeur. The condition involves behavioral or emotional responses in school that differ significantly from normative standards, taking into consideration ethnic or cultural variables, as supported by multiple data sources using two or more of the following: behavior checklists, personality or projective measures, interviews with the child or knowledgeable adults, case history, or an appropriate DSM-III-R diagnosis. The team, when determining the existence of an emotional or behavioral disorder, must give due consideration to a diagnosis of an emotional disorder made by an appropriately licensed mental health professional. B. The condition adversely affects educational performance to the degree it results in: (1) a pattern of inability to build or maintain satisfactory interpersonal relations with peers, parents,		There are no direct analogues to entrance criteria in Federal Law.

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teachers, and other significant adults necessary to the learning process; or (2) a pattern of failure to attain or maintain a satisfactory rate of educational progress that cannot be improved or explained by addressing intellectual, sensory, health, cultural, linguistic factors, or a mismatch between the student, the teacher or the curriculum or classroom, or learning environment. C. The combined results of prior documented interventions and the assessment data must establish significant impairments in one or more of the following areas: personal, social, academic, or vocational skills. This finding must be supported by data from two or more of the following procedures: adaptive behavior scales, sociometric or social skill measures, achievement or cognitive tests; grades, systematic behavioral checklists or observations, vocational skill inventories, or reports. The data must document that the impairment: (1) severely interferes with the pupil's or other students' educational performance; (2) is pervasive as evidenced by occurrences across educational settings, the home, or in community settings; (3) has been in evidence for six months; or (4) occurs suddenly as a crisis of such intensity it results in imminent danger or harm to the pupil or others. D. The team verifies that: (1) the established pattern may occur with, but is not primarily the result of, intellectual, sensory, health, cultural, linguistic factors, or stressors such as transient medical or psychosocial events, chemical use, abuse or addiction, or a history of an inconsistent educational program; and (2) identification is not based solely on a conflict between the individual and a political entity, a governmental entity, or for purposes of disciplinary action. E. Children not yet enrolled in kindergarten are eligible for special education and related services if they meet the criteria listed in items A; B; C, subitem (2), (3), or (4); and D. The behaviors of concern must be determined by the team to be significantly inappropriate for the age of the child being assessed. To establish item C, subitem (2), (3), or (4), data from the assessment process must find developmentally		

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significant impairments in self-care, social relations, or social or emotional growth. The findings must be supported by data from two or more of the following procedures: adaptive behavior scales, sociometric or social skill measures, systematic behavioral checklists, systematic documented observations, interventions, or written reports.		
3525.1331 HEARING IMPAIRMENT.		
Subpart 1. Definition. "Hearing impairment" means a diminished sensitivity to sound that is expressed in terms of standard audiological measures. Hearing impairment has the potential to affect educational, communicative, or social functioning that may result in the need for special education instruction and related services.		State definitions are consistent with federal definitions which are much more general.
Subp. 2. Criteria. The team shall determine that a pupil who has a hearing impairment is eligible for special education instruction and related services if the pupil meets one of the criteria in item A and one of the criteria in item B, C, or D. A. There is audiological documentation provided by a certified audiologist that verifies one of the following: (1) a sensorineural hearing loss with an unaided pure tone average, speech threshold, or auditory brain stem response threshold of 20 decibels hearing level (HL) or greater in the better ear; (2) a conductive hearing loss with an unaided pure tone average or speech threshold of 20 decibels hearing level (HL) or greater in the better ear persisting over three months or occurring at least three times during the previous 12 months as verified by audiograms with at least one measure provided by a certified audiologist; (3) a unilateral sensorineural or persistent conductive loss with an unaided pure tone average or speech threshold of 45 decibels hearing level (HL) or greater in the affected ear; or (4) a sensorineural hearing loss with unaided pure tone thresholds at 35 decibels hearing level (HL) or greater at two or more adjacent frequencies (500 hertz, 1000 hertz, 2000 hertz, or 4000 hertz) in the better ear.		There are no direct analogues to entrance criteria in Federal Law.

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B. The pupil's hearing impairment affects educational performance as demonstrated by: (1) a need to consistently use amplification appropriately in educational settings as determined by audiological measures and systematic observation; or (2) an achievement deficit in one or more of the following that is at the 15th percentile or 1.0 standard deviations or more below the mean on a technically adequate norm-referenced achievement test that is individually administered by a licensed professional: (a) basic reading skills; (b) reading comprehension; or (c) written language. C. The pupil's hearing impairment affects the use and understanding of spoken English as documented by one or both of the following: (1) under the pupil's typical classroom condition, the pupil's classroom interaction is limited as measured by systematic observation of communication behaviors; or (2) the pupil uses American sign language or one or more alternative or augmentative systems of communication alone or in combination with spoken English as documented by parent or teacher reports and language sampling conducted by a knowledgeable professional. D. The pupil's hearing impairment affects the adaptive behavior required for age-appropriate social functioning as supported by: (1) documented systematic observation within the pupil's primary learning environments by a licensed professional and the pupil, when appropriate; and (2) scores on a standardized scale of social skill development are below the average scores expected of same-age peers.		
3525.1333 MENTALLY IMPAIRED: MILD-MODERATE/MODERATE-SEVERE.		
Subpart 1. Definition. "Mentally impaired" refers to pupils with significantly subaverage general intellectual		State definitions are consistent

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functioning resulting in or associated with concurrent deficits in adaptive behavior that may require special education instruction and related services.		with federal definitions which are much more general.
Subp. 2. Criteria for mild-moderate. The team shall determine that a pupil is eligible as having a mild-moderate mental impairment and is in need of special education instruction and service if the pupil meets the criteria of both items A and B. A. Performance that falls at or below the 15th percentile in the following adaptive behavior domains measured in both school and home or community on nationally-normed, technically adequate measures of adaptive behavior: (1) personal or independent functioning includes competencies associated with looking after one's self. It identifies all the essential behaviors a person must exhibit in order to be regarded as at least minimally competent in a typical environment; (2) personal or social functioning includes all those behaviors involving the individual with other people that must be exhibited at minimally competent levels in order for the individual to be considered acceptable and successful in interpersonal relations; (3) functional academic competencies address basic fundamental literacy skills and knowledge of the basic concept of time and money. Functional academics refers to very basic reading and writing skills and to practical every day demands for knowledge of numerical and temporal relationships; or (4) vocational or occupational competencies associated with this domain are not expected to develop until early school-age years. They become increasingly important at progressively higher grade levels. The vocational or occupational domain includes three subdomains: knowledge about careers and work; appropriate attitudes and values concerning careers and work; and specific skills associated with job or career. This data is supported by written evidence drawn from two or more of the following sources:	BEST COPY AVAILABLE	There are no direct analogues to entrance criteria in Federal Law.

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(a) documented, systematic observation; (b) checklist; (c) classroom or work samples; (d) interviews; (e) sociometric measures; (f) criterion-referenced measures; (g) educational history; or (h) medical history. B. Significantly subaverage intellectual functioning as indicated by an intelligence quotient below 70 plus or minus 1 Standard Error of Measurement (using instruments with a reliability coefficient of .90 or greater) on an intelligence test that is standardized, nationally-normed, technically adequate, and individually administered.		
Subp. 3. Criteria for moderate-severe. The team shall determine that a pupil is eligible as having a moderate-severe mental impairment and is in need of special education instruction and service if the pupil meets the criteria of both items A and B. A. Performance that falls below the 10th percentile in the following adaptive behavior domains measured in both school and home or community on nationally-normed, technically adequate measures of adaptive behavior: (1) personal or independent functioning, personal or social functioning, functional academic competencies, or vocational or occupational competencies; and (2) the data is supported by written evidence drawn from two or more of the following sources: (a) documented, systematic observation; (b) checklist; (c) classroom or work samples; (d) interviews; (e) sociometric measures; (f) criterion-referenced measures; (g) educational history; or (h) medical history. B. Significantly subaverage intellectual functioning as indicated by an intelligence quotient below 50 plus or minus 1 Standard Error of Measurement (using instruments with a		There are no direct analogues to entrance criteria in Federal Law.

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reliability coefficient of .90 or greater) on an intelligence test that is standardized, nationally-normed, technically adequate, and individually administered.		
3525.1335 OTHER HEALTH IMPAIRED.		
Subpart 1. Definition. "Other health impaired" means a broad range of medically diagnosed chronic or acute health condition that may adversely affect academic functioning and result in the need for special education instruction and related services. The decision that a specific health condition qualifies as other health impaired will be determined by the impact of the condition on academic functioning rather than by the diagnostic label given the condition.		State definitions are consistent with federal definitions which are much more general.
Subp. 2. Criteria. The team shall determine that a pupil is eligible and in need of special education instruction and services if the pupil meets the criterion in item A and one of the criteria in item B. A. There is documentation of a medically diagnosed health impairment. B. The pupil's: (1) need for special education instruction and service is supported by evidence of inadequate academic progress attributable to excessive absenteeism as verified by attendance records, or impaired organizational and independent work skills as assessed by functional and other appropriate assessment procedures due to limited strength, endurance, alertness, or intrusive health procedures as verified by a minimum of two or more documented, systematic observations or structured interviews in daily routine settings, one of which is to be completed by a special education teacher; or (2) need for special education instruction and service is supported by evidence of an inability to manage or complete classroom tasks within routine timelines due to excessive absenteeism as verified by attendance records, or limited strength, endurance, alertness, intrusive health procedures, or medications that affect cognitive functioning as verified by a minimum of two or more documented, systematic observations or structured interviews in daily routine settings,		There are no direct analogues to entrance criteria in Federal Law.

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one of which is completed by a special education teacher; or (3) health impairment interferes with educational performance as shown by an achievement deficit of 1.5 standard deviations or more below the mean on an individually administered reliable, valid, and adequately normed achievement test.		
3525.1337 PHYSICALLY IMPAIRED.		
Subpart 1. Definition. "Physically impaired" means a medically diagnosed chronic, physical impairment, either congenital or acquired, that may adversely affect physical or academic functioning and result in the need for special education and related services.		State definitions are consistent with federal definitions which are much more general.
Subp. 2. Criteria. The team shall determine that a pupil is eligible and in need of special education instruction and services if the pupil meets the criterion in item A and one of the criteria in item B. A. There is documentation of a medically diagnosed physical impairment. B. The pupil's: (1) need for special education instruction and service is supported by a functional level of organizational or independent work skills as verified by a minimum of two or more documented, systematic observations in daily routine settings, one of which is completed by a special education teacher; (2) need for special education instruction and service is supported by an inability to manage or complete motoric portions of classroom tasks within time constraints as verified by a minimum of two or more documented, systematic observations in daily routine settings, one of which is completed by a special education teacher; or (3) physical impairment interferes with educational performance as shown by an achievement deficit of 1.0 standard deviations or more below the mean on an individually administered reliable, valid, and adequately normed achievement test.		There are no direct analogues to entrance criteria in Federal Law.

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3525.1339 SEVERELY MULTIPLY IMPAIRED.		
Subpart 1. Definition. "Severely multiply impaired" means a pupil who has severe learning and developmental problems resulting from two or more disability conditions determined by assessment under part 3525.2500.		State definitions are consistent with federal definitions which are much more general.
Subp. 2. Criteria. The team shall determine that a pupil is eligible as being severely multiply impaired if the pupil meets the entrance criteria for two or more of the following disabilities: A. hearing impaired, part 3525.1331; B. physically impaired, part 3525.1337; C. moderate-severe mentally impaired, part 3525.1333, subparts 1 and 3; D. visually impaired, part 3525.1345; E. emotional or behavioral disorders, part 3525.1329; or F. autism, part 3525.1325.		There are no direct analogues to entrance criteria in Federal Law.
3525.1341 SPECIFIC LEARNING DISABILITY.		
Subpart 1. Definition. "Specific learning disability" means a condition within the individual affecting learning, relative to potential. A specific learning disability is manifested by interference with the acquisition, organization, storage, retrieval, manipulation, or expression of information so that the individual does not learn at an adequate rate when provided with the usual developmental opportunities and instruction from a regular school environment. A specific learning disability is demonstrated by a significant discrepancy between a pupil's general intellectual ability and academic achievement in one or more of the following areas: oral expression, listening comprehension, mathematical calculation or mathematics reasoning, basic reading skills, reading comprehension, and written expression. A specific learning disability is demonstrated primarily in academic functioning, but may also affect self-esteem, career development, and life adjustment skills. A specific learning	SEC. 1402. DEFINITIONS. (26) SPECIFIC LEARNING DISABILITY- (A) IN GENERAL (B) DISORDERS INCLUDED (E) DISORDERS NOT INCLUDED	State definitions are consistent with federal definitions which are much more general.

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disability may occur with, but cannot be primarily the result of: visual, hearing, or motor impairment; mental impairment; emotional disorders; or environmental, cultural, economic influences, or a history of an inconsistent education program.		
Subp. 2. Criteria. The team shall determine that a pupil has a specific learning disability and is in need of special education and related services when the pupil meets the criteria described in items A through C. Information about each item must be sought from the parent and included as part of the assessment data. The assessment data must confirm that the disabling effects of the pupil's disability occur in a variety of settings. A. The pupil must demonstrate severe underachievement in response to usual classroom instruction. The performance measures used to verify this finding must be both representative of the pupil's curriculum and useful for developing instructional goals and objectives. The following assessment procedures are required at a minimum to verify this finding: (1) evidence of low achievement from sources such as cumulative record reviews, classwork samples, anecdotal teacher records, formal and informal tests, curriculum based assessment results, and results from instructional support programs such as Chapter 1 and Assurance of Mastery; and (2) at least one team member other than the pupil's regular teacher shall observe the pupil's academic performance in the regular classroom setting. In the case of a child served through an Early Childhood Special Education program or who is out of school, a team member shall observe the child in an environment appropriate for a child of that age. B. The pupil must demonstrate a severe discrepancy between general intellectual ability and achievement in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematical calculation, or mathematical reasoning. The demonstration of a severe discrepancy shall not be based solely on the use of standardized tests. The team shall consider these standardized test results as only one component of the eligibility criteria. (1) The instruments used to assess the pupil's		There are no direct analogues to entrance criteria in Federal Law.

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general intellectual ability and achievement must be individually administered and interpreted by an appropriately licensed person using standardized procedures. (2) For initial placement, the severe discrepancy must be equal to or greater than 1.75 standard deviations below the mean of the distribution of difference scores for the general population of individuals at the pupil's chronological age level. C. The team must agree that it has sufficient assessment data that verify the following conclusions: (1) the pupil has an information processing condition that is manifested by behaviors such as: inadequate or lack of expected acquisition of information, lack of organizational skills (such as in following directions, written and oral; spatial arrangements; correct use of developmental order in relating events; transfer of information onto paper), memory (visual and auditory), expression (verbal and nonverbal), and motor control for written tasks such as pencil and paper assignments, drawing, and copying; (2) the disabling effects of the pupil's information processing condition occur in a variety of settings; and (3) the pupil's underachievement is not primarily the result of: visual, hearing, or motor impairment; mental impairment; emotional or behavioral disorders; or environmental, cultural, economic influences, or a history of an inconsistent education program.		
3525.1343 SPEECH OR LANGUAGE IMPAIRMENTS.		
Subpart 1. Fluency disorder; definition and criteria. "Fluency disorder" means the intrusion or repetition of sounds, syllables, and words; prolongations of sounds; avoidance of words; silent blocks; or inappropriate inhalation, exhalation, or phonation patterns. These patterns may also be accompanied by facial and body movements associated with the effort to speak. Fluency patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder. The team shall determine that a pupil has a fluency disorder and is eligible for speech or language special		State definitions are consistent with federal definitions which are much more general.

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education when the pupil meets the criteria in both items A and B: A. the behavior interferes with communication as judged by a teacher of communication disorders and either another adult or the child; and B. dysfluent behaviors occur during at least five percent of the words spoken on two or more speech samples.		
Subp. 2. Voice disorder; definition and criteria. "Voice disorder" means the absence of voice or presence of abnormal quality, pitch, resonance, loudness, or duration. Voice patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder. The team shall determine that a pupil has a voice disorder and is eligible for speech or language special education when the pupil meets the criteria in both items A and B: A. the behavior interferes with communication as judged by a teacher of communication disorders and either another adult or the child; and B. achievement of a moderate to severe vocal severity rating is demonstrated on a voice assessment profile administered on two separate occasions, two weeks apart, at different times of the day.		State definitions are consistent with federal definitions which are much more general.
Subp. 3. Articulation disorder; definition and criteria. "Articulation disorder" means the absence of or incorrect production of speech sounds that are developmentally appropriate. Articulation patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder. The team shall determine that a pupil has an articulation disorder and is eligible for speech or language special education when the pupil meets the criteria in item A and either item B, C, or D: A. the behavior interferes with communication as judged by a teacher of communication disorders and either another adult or the child; and B. test performance falls 2.0 standard deviations		State definitions are consistent with federal definitions which are much more general.

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below the mean on a technically adequate, norm-referenced articulation test; or C. performance on a pressure consonant test indicates problems in nasal resonance; or D. a pupil is nine years of age or older and a sound is consistently in error as documented by two three-minute conversational speech samples.		
Subp. 4. Language disorder; definition and criteria. "Language disorder" means a breakdown in communication as characterized by problems in expressing needs, ideas, or information that may be accompanied by problems in understanding. Language patterns that can be attributed only to dialectical, cultural, or ethnic differences or to the influence of a foreign language should not be identified as a disorder. The team shall determine that a pupil has a language disorder and is eligible for speech or language special education services when the pupil meets the criteria in items A and B and either C or D: A. the behavior interferes with communication as judged by a teacher of communication disorders and either another adult or the child; and B. an analysis of a language sample or documented observation of communicative interaction indicates the pupil's language behavior falls below or is different from what would be expected given consideration to chronological age, developmental level, or cognitive level; and C. the pupil scores 2.0 standard deviations below the mean on at least two technically adequate, norm-referenced language tests if available; or D. if technically adequate, norm-referenced language tests are not available to provide evidence of a deficit of 2.0 standard deviations below the mean in the area of language, two documented measurement procedures indicate a substantial difference from what would be expected given consideration to chronological age, developmental level, or cognitive level. These procedures may include additional language samples, criterion-referenced instruments, observations in natural environments, and parent reports.		State definitions are consistent with federal definitions which are much more general.

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3525.1345 VISUALLY IMPAIRED.		
Subpart 1. Definition. "Visually impaired" means a medically verified visual impairment accompanied by limitations in sight that interfere with acquiring information or interaction with the environment to the extent that special education instruction and related services may be needed.		State definitions are consistent with federal definitions which are much more general.
Subp. 2. Criteria. The team shall determine that a pupil is eligible as having a visual disability and in need of special education if the pupil meets one of the criteria in item A and one of the criteria in item B. A. There is medical documentation of a diagnosed visual impairment by a licensed eye specialist establishing one or more of the following conditions: (1) visual acuity of 20/60 or less in the better eye with the best conventional correction; estimation of acuity is acceptable for difficult-to-test learners; (2) visual field of 20 degrees or less, or bilateral scotomas; or (3) a congenital or degenerating eye condition including, but not limited to, progressive cataract, glaucoma, retinitis pigmentosa, albinism, or nystagmus. B. A functional assessment of visual abilities conducted by a licensed teacher of the visually disabled determines that: (1) the pupil has limited ability in visually accessing program-appropriate educational media including, but not limited to, textbooks, photocopies, ditto copies, chalkboards, computers, or environmental signs, without modification; (2) the pupil has limited ability to visually access the full range of program-appropriate educational materials and media without accommodating actions including, but not limited to, changes in posture, body movement, focal distance, or squinting; (3) the pupil demonstrates variable visual ability due to environmental factors including, but not limited to, lighting, contrast, weather, color, or movement, that cannot		There are no direct analogues to entrance criteria in Federal Law.

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be controlled; and (4) the pupil experiences reduced ability due to visual fatigue.		
3525.1348 TRAUMATIC BRAIN INJURY (TBI) DEFINITION AND ENTRANCE CRITERIA.		
Subpart 1. Definition. "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that may adversely affect a child's educational performance and result in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as: cognition, speech/language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, and information processing. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.		State definitions are consistent with federal definitions which are much more general.
Subp. 2. Criteria. The team shall determine that a pupil is eligible and in need of special education and related services if the pupil meets the criterion in item A and the criteria in items B and C as documented by the information gathered according to item D: A. There is documentation by a physician of a medically verified traumatic brain injury. B. There is a functional impairment attributable to the traumatic brain injury that adversely affects educational performance in one or more of the following areas: intellectual-cognitive, academic, communication, motor, sensory, social-emotional-behavioral, and functional skills-adaptive behavior. Examples of functional impairments which may adversely affect educational performance are: (1) intellectual-cognitive, such as, but not limited to, impaired: (a) attention or concentration; (b) ability to initiate, organize, or complete tasks;		There are no direct analogues to entrance criteria in Federal Law.

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(c) ability to sequence, generalize, or plan; (d) insight/consequential thinking; (e) flexibility in thinking, reasoning, or problem-solving; (f) abstract thinking; (g) judgment or perception; (h) long-term or short-term memory; (i) ability to acquire or retain new information; (j) ability to process information; (2) academic, such as, but not limited to: (a) marked decline in achievement from preinjury levels; (b) impaired ability to acquire basic skills (reading, written language, mathematics); (c) normal sequence of skill acquisition which has been interrupted by the trauma as related to chronological and developmental age; (3) communication, such as, but not limited to: (a) impaired ability to initiate, maintain, restructure, or terminate conversation; (b) impaired ability to respond to verbal communication in a timely, accurate or efficient manner; (c) impaired ability to communicate in distracting or stressful environments; (d) impaired ability to use language appropriately (requesting information, predicting, analyzing, or using humor); (e) impaired ability to use appropriate syntax; (f) impaired abstract or figurative language; (g) perseverative speech (repetition of words, phrases, or topics); (h) impaired ability to understand verbal information; (i) impaired ability to discriminate relevant from irrelevant information; (j) impaired voice production/articulation (intensity, pitch, quality, apraxia, or dysarthria); (4) motor, such as, but not limited to, impaired: (a) mobility (balance, strength, muscle tone, or equilibrium); (b) fine or gross motor skills; (c) speed of processing or motor response time; (d) sensory/perceptual motor skills; (5) sensory, such as, but not limited to, impaired:		

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(a) vision (tracking, blind spots, visual field cuts, blurred vision, or double vision); (b) hearing (tinnitus, noise sensitivity, or hearing loss); (6) social-emotional-behavioral, such as, but not limited to: (a) ability to initiate or sustain appropriate peer or adult relationships; (b) impaired ability to perceive, evaluate, or use social cues or context appropriately; (c) impaired ability to cope with over-stimulating environments, low frustration tolerance; (d) mood swings or emotional ability; (e) impaired ability to establish or maintain self-esteem; (f) denial of deficits affecting performance; (g) poor emotional adjustment to injury (depression, anger, withdrawal, or dependence); (h) impaired ability to demonstrate age-appropriate behavior; (i) impaired self-control (verbal or physical aggression, impulsivity, or disinhibition); (j) intensification of preexistent maladaptive behaviors or disabilities; (7) functional skills-adaptive behavior, such as but not limited to, impaired: (a) ability to perform developmentally appropriate daily living skills in school, home, leisure, or community setting (hygiene, toileting, dressing, eating); (b) ability to transfer skills from one setting to another; (c) orientation (places, time, situations); (d) ability to find rooms, buildings, or locations in a familiar environment; (e) ability to respond to environmental cues (bells, signs); (f) ability to follow a routine; (g) ability to accept change in an established routine; (h) stamina that results in chronic fatigue. C. The functional impairments are not primarily the result of previously existing: (1) visual, hearing, or motor impairments; (2) emotional-behavioral disorders; (3) mental retardation; (4) language or specific learning disabilities; (5) environmental or economic disadvantage;	BEST COPY AVAILABLE	

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(6) cultural differences. D. Information/data to document a functional impairment in one or more of the areas in item B must, at a minimum, include one source from Group One and one source from Group Two: (1) GROUP ONE: (a) checklists; (b) classroom or work samples; (c) educational/medical history; (d) documented, systematic behavioral observations; (e) interviews with parents, student, and other knowledgeable individuals; (2) GROUP TWO: (a) criterion-referenced measures; (b) personality or projective measures; (c) sociometric measures; (d) standardized assessment measures; (academic, cognitive, communication, neuropsychological, or motor).		
3525.1350 EARLY CHILDHOOD: SPECIAL EDUCATION.		
Subpart 1. Definition. Early childhood special education must be available to pupils from birth to seven years of age who have a substantial delay or disorder in development or have an identifiable sensory, physical, mental, or social/emotional condition or impairment known to hinder normal development and need special education.	SEC. 1402. DEFINITIONS. (3) CHILD WITH A DISABILITY (B) CHILD AGED 3 THROUGH 9 (13) INFANT OR TODDLER WITH A DISABILITY PART C--INFANTS AND TODDLERS WITH DISABILITIES SEC. 1432. DEFINITIONS (1) AT-RISK INFANT OR TODDLER (5) INFANT OR TODDLER WITH A DISABILITY	There is no analogue in Federal Law.
129 Subp. 2. Criteria for birth through two years of age. The team shall determine that a child from birth through the age of two years and 11 months is eligible for early childhood special education if: A. the child meets the criteria of one of the disability categories; or	SEC. 1402. DEFINITIONS. (3) CHILD WITH A DISABILITY (B) CHILD AGED 3 THROUGH 9 (13) INFANT OR TODDLER WITH A DISABILITY- PART C--INFANTS AND TODDLERS WITH DISABILITIES	There are no direct analogues to entrance criteria in Federal Law.

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B. the child meets one of the criteria in subitem (1) in addition to criteria in subitems (2) and (3): (1) the child: (a) has a medically diagnosed syndrome or condition that is known to hinder normal development including, but not limited to, cerebral palsy, chromosome abnormalities, fetal alcohol syndrome, maternal drug use, neural tube defects, neural muscular disorders, cytomegalovirus, grades III and IV intracranial hemorrhage, and bronchopulmonary dysplasia (BPD); (b) has a delay in overall development demonstrated by a composite score of 1.5 standard deviations or more below the mean on an assessment using at least one technically adequate, norm-referenced instrument that has been individually administered by an appropriately trained professional; or (c) is less than 18 months of age and has a delay in motor development demonstrated by a composite score of 2.0 standard deviations or more below the mean on an assessment using technically adequate, norm-referenced instruments. These instruments must be individually administered by an appropriately trained professional; (2) the child's need for instruction and services is supported by at least one documented, systematic observation in the child's daily routine setting by an appropriate professional. If observation in the daily routine setting is not possible, the alternative setting must be justified; (3) corroboration of the development or medical assessment with a developmental history and at least one other assessment procedure that is conducted on a different day than the medical norm-referenced assessment. Other procedures may include parent report, language sample, criterion-referenced instruments, or developmental checklists.	SEC. 1432. DEFINITIONS. (2) AT-RISK INFANT OR TODDLER (5) INFANT OR TODDLER WITH A DISABILITY	
Subp. 3. Criteria for three through six years of age. The team shall determine that a child from the age of three years through the age of six years and 11 months is eligible for early childhood special education when: A. the child meets the criteria of one of the disability categories; or B. the child meets one of the criteria in subitem (1)		There are no direct analogues to entrance criteria in Federal Law.

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in addition to criteria in subitems (2) and (3): (1) the child: (a) has a medically diagnosed syndrome or condition that is known to hinder normal development including cerebral palsy, chromosome abnormalities, fetal alcohol syndrome, maternal drug use, neural tube defects, neural muscular disorders, cytomegalovirus, grades III and IV intracranial hemorrhage, and bronchopulmonary dysplasia (BPD); or (b) has a delay in each of two or more areas of development that is verified by an assessment using technically adequate, norm-referenced instruments. Subtests of instruments are not acceptable. The instruments must be individually administered by appropriately trained professionals and the scores must be at least 1.5 standard deviations below the mean in each area; (2) the child's need for special education is supported by at least one documented, systematic observation in the child's daily routine setting by an appropriate professional. If observation in the daily routine setting is not possible, the alternative setting must be justified; (3) corroboration of the developmental or medical assessment with a developmental history and at least one other assessment procedure in each area that is conducted on a different day than the medical or norm-referenced assessment. Other procedures may include parent report, language sample, criterion-referenced instruments, or developmental checklists.		
3525.1352 DEVELOPMENTAL ADAPTED PHYSICAL EDUCATION: SPECIAL EDUCATION.		
Subpart 1. Definition. "Developmental adapted physical education: special education" means specially designed physical education instruction and services for pupils with disabilities who have a substantial delay or disorder in physical development. Developmental adapted physical education: special education instruction for pupils age three through 21 may		State definitions are consistent with federal definitions which are much more general.

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include development of physical fitness, motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, individual and group games, and sports. Students with conditions such as obesity, temporary injuries, and short-term or temporary illness or disabilities are termed special needs students. Special needs students are not eligible for developmental adapted physical education: special education. Provisions and modifications for these students must be made within regular physical education as described in Minnesota Statutes, section 126.02.		
Subp. 2. Criteria. A pupil is eligible for developmental adapted physical education: special education when the team determines the pupil has met the criteria in items A and B. A. The pupil has one of the following disabilities in each respective criteria in parts 3525.1325 to 3525.1341, 3525.1345, and 3525.1354: autism, deaf/blind, emotional or behavioral disorders, hearing impaired, specific learning disability, mentally impaired, severely multiply impaired, other health impaired, physically impaired, visually impaired, traumatic brain injury or part 3525.1350, subpart 3. B. The pupil is determined by the team to need specially designed physical education instruction because: (1) the pupil's performance on an appropriately selected, technically adequate, norm-referenced psychomotor or physical fitness instrument is 1.5 standard deviations or more below the mean. The instrument must be individually administered by appropriately licensed teachers; or (2) the pupil's development or achievement and independence in school, home, and community settings is inadequate to allow the pupil to succeed in the regular physical education program as supported by written documentation from two or more of the following: motor and skill checklists; informal tests; criterion-referenced measures; deficits in achievement related to the defined curriculum; medical history or reports; parent and staff interviews; systematic observations; and social, emotional, and behavioral assessments.		There are no direct analogues to entrance criteria in Federal Law.

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3525.1354 TEAM OVERRIDE ON ELIGIBILITY DECISIONS.		
Subpart 1. Documentation required. If the team determines that a pupil is eligible for special instruction and related services because the pupil has a disability and needs special instruction even though the pupil does not meet the specific requirement in parts 3525.1325 to 3525.1345 and 3525.2335, the team must include the documentation in the pupil's special education record listed in items A to D. A. The pupil's record must contain documents that explain why the standards and procedures, that are used with the majority of pupils, resulted in invalid findings for this pupil. B. The record must indicate what objective data were used to conclude that the pupil has a disability and is in need of specialized instruction. These data may include test scores, work products, self-reports, teacher comments, previous testings, observational data, ecological assessments, and other developmental data. C. Since the eligibility decision is based on a synthesis of multiple data and not all data are equally valid, the team must indicate which data had the greatest relative importance for the eligibility decision. D. The team override decision must include a sign-off by the team members agreeing to the override decision. For those team members who disagree with the override decision, a statement of why they disagree and their signature must be included.		There is no analogue in Federal Law.
Subp. 2. Record of team overrides. The district director of special education shall keep sufficient records regarding the extent of the team override provision to assist the state in evaluating the adequacy of the various entrance criteria.		There is no analogue in Federal Law.
3525.1356 EXIT PROCEDURES. The team shall discontinue special education instruction and services when: A. the pupil has achieved IEP goals and objectives such that the pupil demonstrates the ability to succeed in the regular education program or an appropriate community-based	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS	Minnesota Rule is consistent with Federal requirements, and is more detailed or definitive.

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environment without special instruction and services; B. the medical disease or condition originally diagnosed has been corrected and the pupil no longer needs special instruction and services; C. the pupil's physical or other health impairment no longer adversely affects educational performance; D. the pupil graduates having successfully completed graduation requirements as prescribed by the board of education or the pupil's IEP; or E. the pupil exceeds school age through 21 years. For any pupil discontinuing special education and services pursuant to item A or C, the IEP manager shall summarize: (a) the pupil's last IEP goal or objectives attainment status; (b) the most recent assessment data; and (c) any recommendations about future anticipated service needs for postsecondary education, training, and any other relevant areas.	(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY	
3525.1400 FACILITIES, EQUIPMENT AND MATERIALS. Classrooms and other facilities in which pupils receive instruction, related services, and supplementary aids and services shall: be essentially equivalent to the regular education program; provide an atmosphere that is conducive to learning; and meet the pupils' special physical, sensory, and emotional needs. The necessary special equipment and instructional materials shall be supplied to provide instruction, related services, and supplementary aids and services.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES (B) OBLIGATION OF PUBLIC AGENCY (i) IN GENERAL SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (d) INDIVIDUALIZED EDUCATION PROGRAMS (3) DEVELOPMENT OF IEP (B) CONSIDERATION OF SPECIAL FACTORS (v)	Minnesota Rule is consistent with Federal requirements, and is more detailed or definitive.
3525.1510 PERSONNEL VARIANCES. A district may apply to the commissioner of children, families, and learning for and the commissioner shall grant a variance from Minnesota Statutes, section 125.04, with regard to its employees for one year or less when: A. the district has made attempts to employ an appropriately licensed person and no one who meets district qualifications is available; and	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (15) PERSONNEL STANDARDS	Federal Law exceeds Minnesota Rule requirements because under Federal Law such variances may extend only for three years.

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B. the person who will be employed holds any license issued by the Board of Teaching or the State Board of Education.		
3525.2325 EDUCATION PROGRAMS FOR K-12 PUPILS AND REGULAR STUDENTS PLACED IN CENTERS FOR CARE AND TREATMENT.		
Subp. 4. When a student or pupil leaves the facility. If a student or pupil has received an assessment or special education services for 15 or more days, the providing district must prepare an exit report summarizing the regular education or special education assessment or service information and must send the report to the home school, the receiving facility, the parent, and any appropriate social service agency. For a pupil, this report must include a summary of current levels of performance, progress, and any modifications made in the pupil's IEP or services. Record transfers between anyone other than educational agencies and the parent require prior approval of the parents in accordance with data privacy laws. Subp. 5. Minimum service required. The team must predict how long the pupil or regular education student must be placed for care and treatment. If the prediction is for a restricted period of more than 170 days or its equivalent, exclusive of summer school, the district shall make available: A. the instruction necessary for the student or pupil to make progress in the appropriate grade level for the successful completion of the courses, programs, or classes the student or pupil would have been enrolled in if the student or pupil were not placed for care and treatment; B. preferably a normal school day in accordance with part 3525.2900, subpart 3; C. an average of at least two hours a day of one-to-one instruction; or D. a minimum of individualized instruction for one-half of the normal school day if it is justified in the pupil's IEP or student's education plan that none of these options are appropriate. If the predicted restricted period is fewer than 171 days, exclusive of summer school, the district shall make available at a minimum either small group instruction for one-half of the normal school day or at least an average of one hour a day of	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (10) CHILDREN IN PRIVATE SCHOOLS (B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES	There is no analogue in Federal Law. See recommendations of Legislative Task Force on Special Education II.

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one-to-one instruction. Provision of special educational services for pupils outside of the providing school district's regular calendar is optional unless the pupil has an extended year IEP. Subp. 6. Placement, services, and due process requirements for pupils. A. The IEP developed by the team must include the provisions of part 3525.2900, the location of the special education services, the projected duration of the special education services, and provisions for coordinating the care and treatment and the special education services. B. The nature of and the restrictiveness of some long-term facilities require the pupils to remain on site. When a pupil's treatment and educational needs allow, integration shall be provided in a regular educational setting. The determination of the amount and site of integrated services must be a joint decision between parents, the treatment and education staff, and when possible final educational placement decisions must be made by the IEP team of the providing educational agency. If the IEP team concludes a pupil can benefit from an average of more than three hours of educational services, it must, in conjunction with care and treatment center staff, consider the feasibility and appropriateness of an education placement at a regular school site. C. If a pupil is placed in a residential facility outside the resident district, the providing district must provide appropriate special education services. The placement of the pupil in a residential center for care and treatment outside the resident district is not an initial placement in the receiving district. The providing district shall make every effort to implement the resident district's IEP, making the modifications necessary due to the restrictive care and treatment setting and based on agreements reached with the parent. The providing district shall comply with the due process procedures of parts 3525.2550 to 3525.4700. Districts shall develop alternative procedures for implementing the legal requirements for observing the student in a regular classroom and document previous interventions that have been tried before the student placed for care and treatment is identified as having a specific learning disability or an emotional or behavioral disorder. These alternative procedures must be		

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included in the district's entrance criteria. The district and facility shall cooperatively develop procedures to be used in emergency situations that comply with the Pupil Fair Dismissal Act according to Minnesota Statutes, sections 127.26 to 127.39, and the district's discipline policy. Subp. 7. Student's and pupil's and regular education student's placement; aid for special education. Special education services provided to pupils and regular education students who have been placed for care and treatment are reimbursable in accordance with parts 3525.0800 and 3525.1310. A. When regular education and special education services are provided, only the special education portion shall be reimbursed with special education aid. B. The special education services provided to pupils in accordance with an IEP are reimbursable. C. The indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable. D. Regular education, including screening, provided to students, pupils, and regular education students are not reimbursable with special education categorical aids.		
3525.2335 EARLY CHILDHOOD PROGRAM SERVICES, ALTERNATIVES, AND SETTINGS.	SEC. 1402. DEFINITIONS. (11) INDIVIDUALIZED EDUCATION PROGRAM SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (d) INDIVIDUALIZED EDUCATION PROGRAMS- (1) DEFINITIONS (A) INDIVIDUALIZED EDUCATION PROGRAM	
3525.2340 CASE LOADS.		
Subp. 4. Case loads for school-age educational service alternatives. Items A and B set the maximum number of school-age pupils that may be assigned to a teacher. Item C deals with caseloads of pupils who receive special education less than 50 percent of the instructional day. A. For pupils who receive direct instruction from a teacher 50 percent or more of the instructional day, but less		There is no analogue in Federal Law. 146

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than a full day: (1) deaf/blind, autistic, or severely multiply impaired, three pupils; (2) deaf/blind, autistic, or severely multiply impaired with one program support assistant, six pupils; (3) mild-moderate mentally impaired or specific learning disabled, 12 pupils; (4) mild-moderate mentally impaired or specific learning disabled with one program support assistant, 15 pupils; (5) all other disabilities with one program support assistant, ten pupils; and (6) all other disabilities with two program support assistants, 12 pupils. B. For pupils who receive special education for a full day: (1) deaf/blind, autistic, or severely multiply impaired with one program support assistant, four pupils; (2) deaf/blind, autistic, or severely multiply impaired with two program support assistants, six pupils; and (3) all other disabilities with one program support assistant, eight pupils. C. For pupils who receive special education less than 50 percent of the instructional day, caseloads are to be determined by the local district's policy based on the amount of time and services required by pupils' IEP plans.		
Subp. 5. Case loads for early childhood program alternatives. A teacher's case load must be adjusted downward based on pupils' severity of disability or delay, travel time necessary to serve pupils in more than one program alternative, and if the pupils on the teacher's case loads are receiving services in more than one program alternative or the pupils are involved with other agencies. The maximum number of pupils that can be assigned to a teacher in any early childhood program alternative is: A. birth through two years: 12 pupils per teacher; B. three through six years: 16 pupils per teacher; and C. birth through six years: 14 pupils per teacher. District early childhood special education (ECSE) classes must		There is no analogue in Federal Law. See recommendations of Legislative Task Force on Special Education II.

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have at least one paraprofessional employed while pupils are in attendance. The maximum number of pupils in an ECSE classroom at any one time with a teacher and a program support assistant is eight. The maximum number of pupils in an ECSE classroom at any one time with an early childhood team is 16.		
3525.2380 VARIANCES FROM RATIOS.		
Subpart 1. Variances. The district may apply to the State Board of Education or its designee for a variance from the case loads in part 3525.2340. The state board or its designee shall grant a variance for less than 90 days when it is demonstrated that unanticipated special education enrollment increases have occurred for students with severe disabilities.		There is no analogue in Federal Law.
3525.2385 STATE INTERPRETER/TRANSLITERATOR STANDARDS FOR THE DEAF AND HARD OF HEARING.		
Subpart 1. Definitions. The terms used in this part have the following meanings: A. "Cued speech" means a system that visually presents traditionally spoken languages. Handshapes representing groups of consonant phonemes and hand placements denoting groups of vowel phonemes are utilized in combination with nonmanual signals to present a visually distinct model of a traditionally spoken language. Whether through the visual channel via cued speech, it is the choice, assembly, and arrangement of linguistic units called phonemes, that comprises and conveys the words and grammatical structure of languages that are spoken and languages that are cued. B. "Interpreter/transliterator" means a person who is able to interpret or transliterate the spoken word into sign language and interpret sign language into the spoken word by American Sign Language (ASL), Pidgin Signed English (PSE), Manually Coded English (MCE), cued speech, voice, oral, or tactile modalities.	SEC. 1412. STATE ELIGIBILITY. (a) IN GENERAL (15) PERSONNEL STANDARDS	State definitions are consistent with federal definitions which are much more general.
Subp. 2. Special education reimbursement. By July 1, 2000, to be eligible for special education reimbursement for the		There is no analogue in Federal

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employment of American Sign Language (ASL)/English interpreter/transliterater or cued speech transliterater of the Deaf and Hard of Hearing, the school board in each district shall employ persons who meet the requirements in subpart 3 or 4.		Law.
Subp. 3. Interpreter/transliterater. To qualify as a sign language interpreter/transliterater, a person shall have completed a training program affiliated with a state accredited educational institution and hold: A. an interpreter and transliterater certificate awarded by the Registry of Interpreters for the Deaf (RID); or B. a general level proficiency certificate at level 3 awarded by the National Association of the Deaf (NAD).		There is no analogue in Federal Law.
Subp. 4. Cued speech transliterater. To qualify as a cued speech transliterater, a person shall hold a current applicable transliterater certificate awarded by Testing, Evaluation and Certification Unit, Inc. (TECUnit).		There is no analogue in Federal Law.
3525.2405 DIRECTORS.		
Subpart 1. Director requirement. The school board in every district shall employ, either singly or cooperatively, a director of special education to be responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration in the district's total special education system. Cooperative employment of a director may be through a host district, joint powers agreement, or a service cooperative.		Minnesota Rule exceeds Federal requirements. This is a State program issue - there is no analogue in Federal Law.
Subp. 2. Conditions. Conditions for employment of one full-time director of special education include A. enrollment of 5,000 or more in public and nonpublic schools within one district; B. enrollment of 4,000 or more in public and nonpublic schools in a group of two or more districts cooperating to provide special education; C. eight or more districts cooperating to provide special education through a host district, joint powers		Minnesota Rule is obsolete due to changes in State Law

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agreement, or service cooperative; or D. districts numbered 287, 916, 917, or other similarly legislated multidistricts.		
Subp. 3. Reimbursement for part-time director. Conditions for special education reimbursement of a part-time director of special education include an enrollment of 2,000 in public and nonpublic schools within a district or group of districts cooperating to provide special education or any cooperative having between five and seven districts cooperating to provide special education through a host district, joint powers agreement, or service cooperative. The maximum reimbursement shall equal the ratio of the actual enrollment to 5,000 within a district or 4,000 in a group of cooperating districts, as applicable, but not less than one-half. A part-time director must be assigned duties other than direct instruction for unreimbursed time.		Minnesota Rule is obsolete due to changes in State Law
3525.2420 VARIANCE. A district may apply to the commissioner of children, families, and learning for a variance from the mandatory employment of a director and conditions for reimbursements. The commissioner shall grant a variance from part 3525.2405 when: A. the growth patterns of a district or cooperative demonstrate that the public and nonpublic school enrollment will increase over the minimum in the next two years; B. districts cannot efficiently cooperate due to geographical isolation; or C. the variance will result in a decrease in combined state and local costs and better delivery of instruction and related services to pupils.		Minnesota Rule is obsolete due to changes in State Law
3525.2470 SUSPENSION, EXCLUSION, AND EXPULSION.		
Subpart 1. Pupil Fair Dismissal Act. The Pupil Fair Dismissal Act, Minnesota Statutes, sections 127.26 to 127.39, applies to all pupils. For the purpose of this part, the definitions in Minnesota Statutes, section 127.27, apply.		154
Subp. 2. Team meeting required. A team meeting shall be held before exclusion or expulsion of a pupil. Within five	SEC. 1415. PROCEDURAL SAFEGUARDS. (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL	Minnesota Rule exceeds Federal

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school days of a suspension, a team meeting shall occur. If a pupil is placed on in-school suspension status according to the district policy established for all students for all or part of the day for two or more consecutive days or three times in one month, a team meeting must be held. The team shall: A. determine whether the misconduct is related to the disability; B. review any assessments and determine the need for further assessment; and C. review the IEP and amend the goals and objectives or develop an alternative IEP program.	SETTING (1) AUTHORITY OF SCHOOL PERSONNEL (B)	requirements because Federal Law allows for 10 days for the meeting to be held. Minnesota Rule exceeds Federal requirements because Federal Law sets no standard for cases of in-school suspension.
Subp. 3. Exclusion and expulsion. A pupil shall not be excluded or expelled when the misconduct is related to the pupil's disability. When it is determined in a team meeting or a Pupil Fair Dismissal Act proceeding that a pupil's misconduct is related to the pupil's disability, then the assessment, IEP, and least restrictive alternative shall be reviewed according to parts 3525.0200 to 3525.4700.	SEC. 1415. PROCEDURAL SAFEGUARDS (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING- (1) AUTHORITY OF SCHOOL PERSONNEL	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
3525.2550 CONDUCT BEFORE ASSESSMENT.		
Subpart 1. Student performance review. After a referral is submitted and before conducting an assessment, the team shall conduct a review of the person's performance in the following areas: intellectual functioning, academic performance, communicative status, motor ability, vocational potential, sensory status, physical status, emotional and social development, and behavior and functional skills. The referral review shall: A. Include a review of any additional screening, referral, or other data about the person and select licensed special education personnel and others as appropriate to conduct the assessment including licensed special education personnel and others who may have the responsibility for implementing the educational program for the person. B. Include a review of the regular education-based prereferral interventions required by Minnesota Statutes, section 126.237, conducted before referral for an assessment. Prereferral interventions are planned, systematic efforts by	SEC. 1402. DEFINITIONS. (11) INDIVIDUALIZED EDUCATION PROGRAM SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (d) INDIVIDUALIZED EDUCATION PROGRAMS- (1) DEFINITIONS (A) INDIVIDUALIZED EDUCATION PROGRAM BEST COPY AVAILABLE	Minnesota Rule is consistent with Federal requirements, and is more detailed or definitive. There is no analogue in Federal Law.

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regular education staff to resolve apparent learning or behavioral problems.		
Subp. 2. Team duties. The team shall: A. Plan to conduct the educational assessment preferably at the home, school, or community setting which the person attends. When the district determines that the assessment or a portion of the assessment cannot be performed utilizing the personnel resources of the district, the district shall make arrangements elsewhere for that portion of the assessment and shall assume all costs for such assessment. B. Give due consideration to assessment results provided by outside sources but need not implement recommendations unless agreed to by the team.	SEC. 1402. DEFINITIONS. (11) INDIVIDUALIZED EDUCATION PROGRAM SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (a) EVALUATIONS AND REEVALUATIONS- (2) REEVALUATIONS (d) INDIVIDUALIZED EDUCATION PROGRAMS- (1) DEFINITIONS (A) INDIVIDUALIZED EDUCATION PROGRAM	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
C. Conduct the assessment within a reasonable time not to exceed 30 days from the date the district receives parental permission to conduct the assessment or the expiration of the ten-day parental response time in cases other than initial assessment, unless a conciliation conference or hearing is requested.		Minnesota Rule is consistent with Federal requirements, and is more definitive in that "reasonable" is defined as 30 days..
3525.2650 NOTICE BEFORE ASSESSMENT.		
Subpart 1. When required. Notice before assessment must be provided in accordance with parts 3525.3200 to 3525.3500 before conducting an educational assessment or reassessment or when the district receives a parent's written request to conduct an educational assessment or reassessment. When a district receives a parent's written request to conduct a formal assessment or reassessment, the district shall serve notice of its decision within ten days of their receipt of the written request.	SEC. 1415. PROCEDURAL SAFEGUARDS.	Minnesota Rule is consistent with Federal requirements, but Federal Law is more detailed or definitive.
3525.2750 EDUCATIONAL ASSESSMENT.		
Subp. 3. Assessment summary report. For the person assessed, results of any or all assessments shall be summarized in a report. The summary report shall include the results and interpretation of the assessment, the person's present level of	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (b) (4) (B)	Minnesota Rule both exceeds and falls short of Federal requirements because in Federal Law these requirements apply

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performance in the areas assessed, and the team's judgments regarding eligibility for services. The assessment summary report shall contain the team members' names, titles, and date of report.		only for LD pupils. Federal Law, however, requires that the report be given to parents.
3525.2900 DEVELOPMENT AND CONTENT OF INDIVIDUAL EDUCATION PROGRAM PLAN.		
Subpart 1. General requirement to develop an IEP for pupils who are disabled. Following an initial assessment, and annually thereafter, an IEP must be developed and implemented for each pupil determined to be disabled under parts 3525.1325 to 3525.1354. The responsible district shall: A. Designate a team of persons responsible for determining the IEP and authorizing expenditures to implement the IEP of pupils through age 21, which, at a minimum, shall include: (1) one or both parents; (2) the pupil, if appropriate. In cases when transition needs are being considered, the pupil must be invited to the meeting. If the pupil fails to attend, the district must implement procedures to determine pupil preferences; (3) the pupil's special education teacher; (4) a teacher or other representative of the general education program where the pupil is enrolled or expected to enroll; (5) a representative of the school district, other than the pupil's teacher, who is qualified to provide or supervise the provision of special education services; (6) for the pupils initial evaluation, at least one member of the assessment team or a person knowledgeable of the evaluation procedures used and the results; (7) other individuals at the discretion of the parent or district; (8) when a regulated procedure is being considered, one person on the team who is knowledgeable about ethnic and cultural issues relevant to the pupil's behavior and education; and (9) if appropriate, someone who is a member of	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (b) (4) (A) (b) (4) (B) (d) (1) (A) (d) (1) (B) (iv)	Minnesota Rule exceeds Federal requirements because [A.] Federal Law does not require that the team be responsible for "authorizing expenditures;" but gives that authority to the "district representative."

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the same minority or cultural background or who is knowledgeable concerning the racial, cultural, or disabling differences of the pupil.		
B. Document which team members attended the IEP meeting.		There is no analogue in Federal Law.
C. Schedule the IEP team meeting at a time and place that is mutually acceptable to the school, parents, and pupil according to part 3525.0700. The district shall proceed if the parents do not respond to the district's efforts for the parent to participate.		Minnesota Rule exceeds Federal Law but is consistent with current Federal Rule.
D. Prepare an IEP in writing before an initial out-of-district placement, ensuring that both districts have representatives participating in the meeting. When the responsible district is not the resident district for subsequent IEPs, a copy of the IEP must be sent to the resident district.		There is no analogue in Federal Law.
E. Provide notice according to parts 3525.3200 to 3525.3600, whenever the responsible school district proposes to initiate or change or refuse to initiate or change the educational placement. For the purposes of this part, the terms "initiate" or "change" must be construed to include the proposals in Minnesota Statutes, section 120.17, subdivision 3b, paragraph (d), clauses (2) to (5); "significant change" is defined in part 3525.0200, subpart 19b.		Minnesota Rule exceeds Federal requirements because of the incorporation by reference of other State requirements - There is no analogue in Federal Law.
F. Ensure that the duration of the IEP does not exceed 12 calendar months. For a team to determine the appropriateness of the placement or to resolve questions regarding the content of the IEP including instructional goals and objectives, an interim IEP may be written for a period of no more than 60 school days.		Minnesota Rule exceeds Federal Law but is consistent with current Federal Rules.
G. Provide extended school year services for those pupils when it is determined: (1) that the pupil will experience "significant regression" in the absence of an educational program; (2) the time required to relearn the skills lost is excessive; or (3) the effects of the breaks in programming are such to prevent the student from attaining the state of self-sufficiency that the student would otherwise reasonably be expected to reach.		Minnesota Rule exceeds Federal Law because Minnesota Rule requires only one criterion be met in determining eligibility for extended year services Federal Law exceeds Minnesota Rule requirements because Federal Law includes stronger

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The amount and type of service for summer must be appropriate to maintain performance on IEP goals. H. The educational components of an individual family services plan (IFSP) must meet all requirements of an IEP. I. Prepare an IEP when contracting for special education services from a public, private, or voluntary agency.		language regarding the pupil's participation in regular education..
Subp. 3. Content of individual educational program plan. In preparing the IEP, the district shall include the following: A. for the areas identified in part 3525.2550, subpart 1, item A, where there are presenting problems, a statement of the pupil's present levels of educational performance; B. a statement of annual goals, including short-term instructional objectives; C. a statement of the specific special education and related services to be provided to the pupil and the extent that the pupil will be able to participate in regular educational programs; D. the projected dates for initiation of each service and the anticipated duration of services; E. alterations of the pupil's school day, when needed, which must be based on student needs and not administrative convenience; F. a transition plan, as required by subpart 4; G. conditional intervention procedures to be used; H. appropriate evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved; and I. the pupil's need for and the specific responsibilities of a paraprofessional shall be described in the pupil's IEP.	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (b) (4) (A) (b) (4) (B) (d) (1) (A)	Minnesota Rule exceeds Federal Law requirements because Federal Law allows for the use of "benchmarks".
Subp. 4. Transition planning. By grade nine or age 14, whichever comes first, the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment, and community living. A. For each pupil, the district shall conduct a multidisciplinary assessment of secondary transition needs and plan appropriate services to meet the pupil's transition needs.		Minnesota Rule exceeds Federal requirements because Federal Law is more permissive regarding the age of initiation.

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Areas of assessment and planning must be relevant to the pupil's needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. To appropriately assess and plan for a pupil's secondary transition, additional IEP team members may be necessary and may include vocational education staff members and other community agency representatives as appropriate. B. Secondary transition assessment results must be documented as part of an assessment summary according to part 3525.2750. Current and secondary transition needs, goals, and instructional and related services to meet the pupil's secondary transition needs must be considered by the team with annual needs, goals, objectives, and services documented on the pupil's IEP.		
Subp. 5. The IEP and regulated interventions. A. There are two types of regulated interventions: conditional procedures and prohibited procedures. (1) Conditional procedures may only be used when included as part of the pupil's IEP or in an emergency situation according to part 3525.0200. In order to utilize a conditional procedure, the IEP team must: (a) identify the frequency and severity of target behaviors for which the conditional procedure is being considered; (b) identify at least two positive interventions implemented and the effectiveness of each; and (c) design and implement regulated interventions based on present levels of performance, needs, goals and objectives, and document in the IEP. (2) Prohibited procedures are interventions that are prohibited from use in schools by school district employees, contracted personnel, and volunteers. The procedures or actions listed in subitems (a) to (i) are prohibited: (a) corporal punishment as defined in Minnesota Statutes, section 127.45; (b) requiring a pupil to assume and maintain a specified physical position, activity, or posture that induces physical pain as an aversive procedure; (c) presentation of intense sounds, lights,		There is no analogue in Federal Law.

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or other sensory stimuli as an aversive stimulus; (d) use of noxious smell, taste, substance, or spray as an aversive stimulus; (e) denying or restricting a pupil's access to equipment and devices such as hearing aids and communication boards that facilitate the person's functioning except temporarily when the pupil is perceived to be destroying or damaging equipment or devices; (f) faradic skin shock; (g) totally or partially restricting a pupil's auditory or visual sense not to include study carrels when used as an academic intervention; (h) withholding regularly scheduled meals or water; and (i) denying a pupil access to toilet facilities. B. All behavioral interventions not covered in the IEP must be consistent with the district's discipline policy. Continued and repeated use of any element of a district's discipline policy must be reviewed in the development of the individual pupil's IEP. C. If an emergency intervention is used twice in a month or a pupil's pattern of behavior is emerging that interferes with the achievement of the pupil's educational goals and objectives, a team meeting must be called to determine if the pupil's IEP is adequate, if additional assessment is needed, and, if necessary, to amend the IEP. Districts may use conditional procedures in emergencies until the IEP team meets, provided the emergency measures are deemed necessary by the district to protect the individual pupil or others from harm. The IEP team shall meet as soon as possible, but no later than five school days after emergency procedures have commenced. District administration and parents must be notified immediately when a regulated procedure is used in an emergency situation. D. Time-out procedures that seclude a student in a specially designated isolation room or similar space must meet the following conditions: (1) specific criteria for returning the pupil to the routine activities and regular education environment; (2) an evaluation to determine whether seclusion		

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is contraindicated for psychological or physical health reasons; (3) provision for the pupil to be continuously monitored by trained staff; (4) adequate access to drinking water and to a bathroom for a time-out that exceeds 15 minutes; (5) documentation of the length of time spent in each time-out procedure and the number of occurrences each day; (6) a safe environment for the pupil where all fixtures are tamper proof, walls and floors are properly covered, and control switches are located immediately outside the room; (7) an observation window or other device to permit continuous monitoring of the pupil; (8) a space that is at least five feet by six feet or substantially equivalent to these dimensions and be large enough to allow the pupil to stand, to stretch the pupil's arms, and to lie down; (9) be well-lighted, well-ventilated, adequately heated, and clean; and (10) all applicable fire and safety codes. E. A parent has the right to withdraw consent for a behavior intervention plan at any time by notifying the program administrator or designee and the district must stop the procedure immediately. After parental consent is withdrawn and the procedure is stopped, the school must send written acknowledgment to the parent and request parental signature. If a parent's signature to withdraw consent cannot be obtained, the district must document its efforts to communicate and obtain the signature. Parents must be contacted within three school days to determine the need to convene the IEP team to consider a change in program or placement.		
3525.3000 PERIODIC REVIEWS. The providing school district shall determine the effectiveness of the pupil's IEP by conducting periodic reviews of the pupil's program plan. The IEP team shall address the plan for, location of, and frequency of at least one periodic review and one annual review of the pupil's progress in achieving the prescribed educational goals and objectives and the appropriateness of the program and placement, and if only	SEC. 1414. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS. (d) INDIVIDUALIZED EDUCATION PROGRAMS- (4) REVIEW AND REVISION OF IEP- SEC. 1436. INDIVIDUALIZED FAMILY SERVICE PLAN.	Federal Law exceeds Minnesota Rule requirements because Federal Law requires more frequent reporting to parents.

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one periodic review is done, it must not be done at the same time as the annual review. The periodic review shall determine: A. the degree to which the periodic review objectives as identified in the educational program plan are being achieved; B. the appropriateness of the educational program plan as it relates to the pupil's current needs; C. what modifications, if any, need to be made in the program plan. The initial review shall be made when specified in the program plan, but at least once a year following placement. These periodic reviews shall be made by those persons directly responsible for implementing the educational program and by other school district agents as may be needed to ensure an informed and adequate review. The results of periodic reviews shall be included in the pupil's school records and a copy sent to the parent and to the resident district if different from the providing district. This copy shall inform the parents and the resident district that they may request a conference to review the pupil's program plan at any time and the procedure to do so. The reviews shall be made in accordance with the requirements for nondiscrimination and recognized professional standards.	(a) PERIODIC REVIEW	
3525.3100 FOLLOW-UP REVIEW REQUIREMENTS. Pupils who are discontinued from all special education services may be reinstated within 12 months. If data on the student's present levels of performance are available and an assessment had been conducted within three years pursuant to part 3525.2750, the district is not required to document two prereferral interventions or conduct a new assessment.		There is no analogue in Federal Law.
3525.3150 REQUIREMENTS FOR A HIGH SCHOOL DIPLOMA. Beginning at grade nine or age 14 and annually thereafter, the IEP team shall address the graduation requirements for a high school diploma for a pupil. A. The team must determine those courses, programs, or classes that must be successfully completed by regular		Minnesota Rule is obsolete due to changes in State Law (See Minnesota's "Graduation Rule" - M.S. 3501)

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education students in the regular education program which are needed to attain a high school diploma and are appropriate and attainable by the pupil. B. The team must determine those courses, programs, or classes which are needed to attain a high school diploma that cannot be successfully attained by the pupil without special education or are not appropriate for the pupil. These requirements must be modified on the IEP or waived by the team. C. The standard for a pupil's attainment of a high school diploma shall be: (1) those courses, programs, or classes identified in item A; (2) those modified and waived courses, programs, or classes determined in item B; and (3) the pupil's goals and objectives on the IEP. D. The IEP team shall determine the criteria for satisfactory achievement of the IEP goals and objectives including modified courses, programs, or classes. A pupil shall receive an identical high school diploma granted to all regular education students upon graduation or termination of special education services through age 21, with satisfactory attainment of the program plan objectives.		
3525.3200 FORMAL NOTICE TO PARENTS. The notice shall be in writing and shall be served on the parent. Every effort shall be made by the providing school district to assure that no person's rights are denied for lack of a parent, or surrogate parent, or duly appointed guardian. The notice shall be written in the primary language of the home and in English, and the district shall make reasonable provisions for such notice to nonreaders and non-English-speaking persons necessary to ensure that the information contained in the notice is understood. For parents who are disabled because of a hearing, speech, or other communication disorder, or because of the inability to speak or comprehend the English language as provided in Minnesota Statutes, section 546.42 the school district shall cause all pertinent proceedings, including but not limited to the conciliation conference, the prehearing review, the hearing, and any appeal to be interpreted in a language the person with a	SEC. 1415. PROCEDURAL SAFEGUARDS (b) TYPES OF PROCEDURES	Minnesota Rule exceeds Federal requirements because Federal law does not require that the notice be written the primary language of the home". Federal Law exceeds Minnesota Rule requirements because of new language requiring notice of mediation procedures.

[illegible]

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the notice and response form unless the parent objects in writing. M. Inform the parents of their right to compel the attendance of any official or employee of the providing or resident school district or any other person, who may have evidence relating to the proposed action and the manner and time in which to do so. R. Inform the parents that they have a right to obtain a record of the hearing including the written findings of fact and decisions whether or not they appeal. T. Inform the parents that their consent for their child's program and placement including the use of aversive and deprivation procedures is voluntary and that they may revoke it at any time.		Minnesota Rule exceeds Federal requirements because Federal Law does not provide parents the right to compel attendance. Federal Law exceeds Minnesota Rule requirements because parent rights are more extensive in Federal Law. There is no analogue in Federal Law.
3525.3400 NOTICE TO RESIDENT SCHOOL DISTRICT. The resident school district, if different from the providing school district, shall receive notice of and will be responsible for any hearings or appeals provided under parts 3525.0200 to 3525.4700 for pupils placed by the resident district if the providing district notifies the school district according to part 3525.0800, subpart 5.		There is no analogue in Federal Law.
3525.3500 NOTICE OF PERFORMANCE OR REFUSAL TO PERFORM ASSESSMENT. F. Inform the parents that if the district refuses to perform the requested reassessment, the district shall initiate a hearing according to parts 3525.3800 to 3525.4700.		Minnesota Rule exceeds Federal requirements because Federal Law does not obligate the district to initiate a hearing.
3525.3600 NOTICE OF CHANGE OR REFUSAL TO CHANGE EDUCATIONAL PLACEMENT OR PROGRAM. C. Inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within ten days after the receipt of the notice. 177		Minnesota Rule exceeds Federal requirements because there are no specific Federal timelines. 173

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3525.3700 CONCILIATION CONFERENCE.		
Subpart 1. When a conference must be offered. If the parent does not object in writing, to a proposed action as set forth in parts 3525.2550 to 3525.2750 or part 3525.2900, subpart 5, within 14 days after receipt of the notice, and the proposed action is not an initial action as defined in part 3525.0200, subparts 7a and 8a, the proposed action shall take place. If a written objection is made, the resident school district shall offer the parent an opportunity to conciliate the matter. If the parent is willing to enter conciliation, the district shall arrange for a conference with the parent to review the reasons for the proposed action and conciliating the matter. The conference shall be held at a time and place mutually convenient to the parent and the school district representatives and shall be held within ten days after receipt of the written objection. There may be more than one conference and the parent or district may request a hearing under part 3525.3800 at any time. If the parent refuses to provide prior written consent for initial assessment and initial placement under parts 3525.3500, item D, and 3525.3600, item A, subitem (2), within ten days after the receipt of the notice and response form, the district shall offer the parent an opportunity to conciliate the matter. If the parent is willing to enter conciliation, the district shall arrange for a conference with the parent to review the parent's suggestions and concerns, and to conciliate the matter. The conference shall be held at a time and place mutually convenient to the parent and school district representatives. If no response is received in cases of initial assessment or placement, the school district shall offer a conciliation conference to be held within ten days after the expiration of the ten-day period for parent response. In cases where the parent fails to attend the initial conciliation conference, the district may choose to offer to schedule additional conciliation conferences.		There is no analogue in Federal Law.
Subp. 2. Memorandum. After the parents and district agree the final conciliation conference was held, the district shall serve the parent with a written memorandum within seven days that informs the parent:		There is no analogue in Federal Law.

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A. Of the school district's proposed action following the conference. B. That if they continue to object to the proposed action they have a right to object to the proposed action at an impartial due process hearing and the procedure and time in which to do so, including a request form on which the parent may request the hearing, and the identification of the district employee to whom the written request form or other written request for hearing should be mailed, and to whom questions and legal documents or requests relating to the hearing may be directed. C. That if they do not request a hearing on the written request form or otherwise in writing pursuant to part 3525.3800 within seven days after receipt of the notice, the district will proceed with the proposed action; unless the proposed action is an initial action as defined in part 3525.0200, subparts 7a and 8a. In cases of proposed initial actions, when a parent continues to refuse to provide written permission, the district shall schedule a hearing within seven days after the expiration of the seven days allowed for parent response. D. That if a hearing is scheduled, the district shall send a notice describing the rights and procedures available to the parents relative to the hearing.		
3525.3800 WHEN A HEARING MUST BE HELD. A hearing regarding a proposed action under parts 3525.2550 to 3525.2750 or 3525.2900 shall be held whenever: (a) the district receives the parents' request for a hearing; (b) a parent refuses to provide written permission for the initial formal assessment or the initial placement and provision of special education services, within ten days after the receipt of the notice and response form, provided the district has made at least one offer to enter into conciliation in an attempt to obtain this written consent; and (c) when the district refuses to conduct a reassessment requested by a parent.	SEC. 1415. PROCEDURAL SAFEGUARDS (f) IMPARTIAL DUE PROCESS HEARING-	Minnesota Rule is consistent with Federal Law and is more detailed or specific.

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